

Exhibit F

Office of Postsecondary Education,
Accrediting Agency Evaluation Unit's Review of
Selected Accrediting Agency Standards and Procedures

FINAL AUDIT REPORT



ED-OIG/A09-C0014
July 2003

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Department's programs and operations.



U.S. Department of Education
Office of Inspector General
Sacramento, California



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF INSPECTOR GENERAL

JUL 23 2003

MEMORANDUM

TO: Sally Stroup
Assistant Secretary
Office of Postsecondary Education

FROM: Helen Lew *Helen Lew*
Assistant Inspector General for Audit

SUBJECT: FINAL AUDIT REPORT — Control Number ED-OIG/A09-C0014
*Office of Postsecondary Education, Accrediting Agency Evaluation Unit's
Review of Selected Accrediting Agency Standards and Procedures*

Enclosed is the subject final report that covers the results of our review of the Accrediting Agency Evaluation Unit management controls for ensuring that accrediting agencies recognized by the Secretary (1) have established standards to address educational institutions' success with respect to student achievement and measures of program length, (2) monitor institutions' adherence to the standards throughout their accreditation, and (3) take consistent enforcement action when institutions are not in compliance with the standards. An electronic copy has been provided to your Audit Liaison Officer. We received your comments non-concurring with Finding No.1 and partially concurring with the other findings presented in the draft report. Your comments are presented at the end of each finding and included in their entirety as an attachment to the report. For the areas of non-concurrence, an OIG response is included at the end of the finding.

Corrective actions proposed (resolution phase) and implemented (closure phase) by your office will be monitored and tracked through the Department's automated audit tracking system. ED policy requires that you develop a proposed Corrective Action Plan (CAP) in the automated system within 60 days of the issuance of this report. The CAP should set forth the specific action items, and targeted completion dates, necessary to implement final corrective actions on the findings and recommendations contained in this final audit report.

In accordance with the Inspector General Act of 1978, as amended, the Office of Inspector General is required to report to Congress twice a year on the number of audits unresolved. In addition, any reports unresolved after 180 days from the date of issuance will be shown as overdue in our reports to Congress.

We appreciate the cooperation given us during this review. If you have any questions, please call Gloria Pilotti at (916) 930-2399.

Enclosure

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Our mission is to ensure equal access to education and to promote educational excellence throughout the Nation.

Notice

Statements that managerial practices need improvements, as well as other conclusions and recommendations in this report represent the opinions of the Office of Inspector General.

Determinations of corrective action to be taken will be made by the appropriate
Department of Education officials.

In accordance with the Freedom of Information Act (5 U.S.C. §552), reports issued by the Office of Inspector General are available, if requested, to members of the press and general public to the extent information contained therein is not subject to exemptions in the Act.

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EXECUTIVE SUMMARY

The Accrediting Agency Evaluation Unit (AAEU), within the U.S. Department of Education, Office of Postsecondary Education (OPE), needs to improve management controls over its evaluations of accrediting agencies recognized by the Secretary. The improvements are needed to ensure that the accrediting agencies have established standards to address institutions' success with respect to student achievement and measures of program length, and that the agencies monitor adherence to the standards and take enforcement action when institutions are not in compliance with the standards.

When evaluating accrediting agencies, AAEU did not require regional agencies to establish quantitative student achievement standards for educational institutions offering vocational education programs. Federal regulations state that accreditation standards for student achievement should include quantitative standards, such as job placement, when appropriate. The Secretary advised accrediting agencies that such quantitative standards should be established for vocational education programs. According to the Unit Chief, AAEU's policy was to require national accrediting agencies to have quantitative standards, but to not require such standards for regional accrediting agencies.

AAEU did not meet the minimum level of quality for management controls as defined in the General Accounting Office publication *Standards for Internal Control in the Federal Government* (GAO's *Internal Control Standards*), dated November 1999.¹ Thus, there is no assurance that AAEU evaluated accrediting agency standards and procedures in a consistent and effective manner.

- AAEU has limited written procedures and other guidance and does not require specialists to fully document their evaluations. We also found that AAEU specialists did not report limitations and weaknesses noted in OIG reviews conducted at individual accrediting agencies.
- AAEU has no documented supervisory review process and relies on individual specialists' evaluations and decisions for recognition recommendations. AAEU's reliance on individual specialists may impact the quality and thoroughness of the evaluations, as well as the integrity of the process.
- AAEU does not contact other Department units, state licensing agencies, or other agencies as part of the evaluations. Direct contact with these agencies and Departmental units could alert AAEU specialist to weaknesses in accreditation standards and the accrediting agency's procedures for monitoring and enforcing its standards at accredited institutions.

We recommend that the Assistant Secretary for the Office of Postsecondary Education ensure that AAEU does not recommend any accrediting agencies for recognition by the Secretary that accredit institutions offering vocational programs unless the agency has established quantitative standards for student achievement. We also recommend that the Assistant Secretary ensure that AAEU develops and implements additional written procedures for its specialists to use in conducting evaluations of accrediting agencies and takes other actions to improve its management controls.

¹ The term "internal controls" used in the GAO publication is synonymous with the term "management controls."

In its comments on the draft report, OPE did not concur with our finding and recommendations concerning its policy on quantitative standards for student achievement. OPE generally concurred with our procedural recommendations to improve AAEU's management controls, except it did not agree with recommendations related to site visits and institutional file reviews, and documenting AAEU specialists' conclusions. Also, OPE is evaluating alternatives to our recommendation that specialists contact other Department units and state agencies as part of their evaluations. OPE's comments on the draft report are summarized at the end of each finding and included in their entirety as ATTACHMENT 2.

BACKGROUND

Postsecondary educational institutions must be accredited by an accrediting agency recognized by the Secretary of the U.S. Department of Education in order to participate in the Higher Education Act of 1965 as amended (HEA), Title IV programs. To be recognized by the Secretary, accrediting agencies must demonstrate that they are reliable authorities regarding the quality of education or training offered by the institutions or programs they accredit. The Secretary may recognize an accrediting agency for a period of up to five years. The Secretary recognizes 39 accrediting agencies for HEA, Title IV purpose.

Section 496 of the HEA authorizes the Secretary to establish criteria for making such a determination. Section 496(a)(5) lists the criteria required, including that the agency's standards of accreditation assess an institution's (1) success with respect to student achievement in relation to the institution's mission, including, as appropriate, consideration of course completion, state licensing examinations, and job placement rates; and (2) measures of program length and the objectives of the degrees or credentials offered.

The regulations at 34 C.F.R. Part 602 implement the provisions of § 496. Among other requirements, the regulations require that accrediting agencies recognized by the Secretary—

- Reevaluate institutions at regular intervals and monitor institutions throughout their accreditation period to ensure that the institutions remain in compliance with the agency's standards, including adequate substantive change policies;
- Take enforcement action within specified time frames when an institution is not in compliance with the agency's standards; and
- Maintain a systematic program of review that demonstrates that the agency's standards are adequate to evaluate the quality of the education or training provided by the institutions it accredits and relevant to the educational or training needs of students.

Section 496(n)(1) requires that the Secretary conduct a comprehensive review and evaluation of the performance of an accrediting agency in order to determine whether the agency meets the established criteria and other requirements. AAEU is the unit within the Department's Office of Postsecondary Education that is responsible for conducting evaluations of accrediting agencies' standards of accreditation and operating procedures. Based on those evaluations, AAEU provides an analysis of the application to the National Advisory Committee on Institutional Quality and Integrity (NACIQI), which in turn advises the Secretary.² AAEU staff includes the Unit Chief and six specialists.

² NACIQI is composed of 15 members appointed by the Secretary of Education and meets twice a year. At the meetings, NACIQI considers accrediting agencies' applications for recognition and hears oral presentations by Department staff and other interested parties. When its review is concluded, NACIQI recommends that the Secretary either approve or deny recognition, or that the Secretary defer a decision.

AUDIT RESULTS

The objective of the audit was to evaluate AAEU's management controls for ensuring that accrediting agencies recognized by the Secretary (1) have established standards to address educational institutions' success with respect to student achievement and measures of program length, (2) monitor institutions' adherence to the standards throughout their accreditation, and (3) take consistent enforcement action when institutions are not in compliance with the standards.

We found that AAEU policies do not require regional accrediting agencies to establish quantitative student achievement standards for institutions offering vocational education programs. We also found that AAEU needs to improve its procedures for conducting evaluations of accrediting agencies' standards and procedures. AAEU has limited written procedures and documentation addressing its evaluations of accrediting agency standards for student achievement and program length and accrediting agency procedures for monitoring and enforcing the standards. AAEU has no documented supervisory process and relies on individual specialists' evaluations and recognition recommendations. AAEU specialists do not contact other Department units or other agencies prior to evaluating an accrediting agency for renewal of its recognition by the Secretary. Without adequate written procedures, documentation, supervision, staffing, and communications, there is no assurance that AAEU is evaluating accrediting agency standards and procedures in a consistent and effective manner.

FINDING NO. 1 – AAEU Does Not Require Regional Accrediting Agencies to Establish Quantitative Student Achievement Standards for Institutions Offering Vocational Education Programs

AAEU does not require regional accrediting agencies to establish quantitative student achievement standards for vocational education programs offered by accredited institutions. The regulations at 34 C.F.R. § 602.16(a)(1)(i) state that agencies must have an accreditation standard addressing—

Success with respect to student achievement in relation to the institution's mission, including, as appropriate, consideration of course completion, State licensing examination, and job placement rates.

In the preamble to the 1994 final regulations and the preamble to the 1999 proposed rules, the Secretary advised accrediting agencies—

For programs that provide vocational education, agencies should establish quantitative standards for completion rates, job placement rates, and pass rates on State licensing examinations.

The two national accrediting agencies included in our review had quantitative standards for student achievement, but the two regional accrediting agencies did not have such standards for institutions they accredited that offer vocational education programs.³ The accreditation standards used by the two regional accrediting agencies relied on the individual institutions to develop assessment programs and document the institution success with respect to student achievement.

According to the Unit Chief, AAEU did not require regional accrediting agencies to have quantitative standards for vocational education programs because the preamble language did not apply to regional accrediting agencies. The preamble language makes no distinction between regional and national accrediting agencies.

Students enroll in vocational training programs offered by accredited institutions with the expectation of obtaining gainful employment upon graduation. Setting quantitative standards and monitoring adherence to those standards enables an accrediting agency to assess and improve the effectiveness of accredited institutions to meet student expectations.

Recommendations

- 1.1 We recommend that the Assistant Secretary for Postsecondary Education develop an HEA reauthorization proposal that clarifies and requires that every accrediting agency establish quantitative standards for student achievement in vocational programs.

Also, we recommend that the Assistant Secretary for Postsecondary Education ensure that AAEU:

- 1.2. Does not recommend to NACIQI any accrediting agencies for recognition by the Secretary that accredit institutions offering vocational programs unless the agencies have established quantitative standards for student achievement.
- 1.3 Notifies all accrediting agencies that their accreditation standards must include quantitative student achievement standards for institutions offering vocational programs.
- 1.4 Promptly identifies the accrediting agencies whose accreditation standards do not include quantitative student achievement standards for institutions offering vocational programs, and notifies NACIQI of recommended corrective action.

OPE Comments

OPE acknowledged that requiring the reporting of student achievement data would provide useful information on program quality to accrediting agencies and the public. However, OPE did not concur with the finding or the recommendations. In its response to the draft report, OPE stated that both OPE's current interpretation of the HEA and regulations and the OIG's interpretation were permissible under the current law. Thus, the decision as to which interpretation to implement was a policy matter. OPE stated that implementing the OIG's recommendations would reverse ten years of

³ The 39 accrediting agencies recognized by the Secretary for Title IV purposes are comprised of 29 national accrediting agencies and 10 regional accrediting agencies. (Six of the regional agencies accredited degree-granting institutions). We selected 2 of the 29 national agencies and 2 of the 6 regional agencies that accredited degree-granting institutions. The four accrediting agencies are identified on ATTACHMENT 1.

interpretation of law and regulations and it preferred to defer action in this area until reauthorization of the HEA.

OIG Response

Our finding and recommendations remain unchanged. Students enrolled in vocational training programs have the same expectation of obtaining gainful employment whether the institution offering the program is accredited by a regional or national accrediting agency. Thus, regional and national accrediting agencies should be held to the same requirement of quantitative standards for student achievement. Given its acknowledgement of the usefulness of achievement data, we agree with OPE that this issue can also be addressed during reauthorization. We added a recommendation that OPE develop an HEA reauthorization proposal that specifically requires all agencies to establish quantitative standards for student achievement in vocational programs.

FINDING NO. 2 –AAEU Has Limited Written Procedures and Documentation Addressing Its Evaluations of Accrediting Agency Standards and Procedures

AAEU has not established adequate management controls over its evaluations of accrediting agencies' standards and procedures. We found that AAEU did not meet minimum levels of management controls because it had limited written procedures and other guidance, and did not require specialists to fully document their evaluations. Without adequate written procedures and documentation, there is no assurance that the specialists are evaluating accrediting agency standards and procedures in a consistent and effective manner. Also, we found that AAEU specialists did not report limitations and weaknesses noted in OIG reviews.

The regulations at 34 C.F.R. § 602.31(b) and (c) describe the procedures that Department staff are to use when evaluating accrediting agencies for recognition by the Secretary.

(b) Department staff analyzes the agency's application to determine whether the agency satisfies the criteria for recognition, taking into account all available relevant information concerning the compliance of the agency with those criteria and any deficiencies in the agency's performance with respect to the criteria. The analysis includes—

(1) Site Visits, on an announced or unannounced basis, to the agency and, at the Secretary's discretion, to some of the institutions or programs it accredits or preaccredits...

(c) Department staff's evaluation may also include a review of information directly related to institutions or programs accredited or preaccredited by the agency relative to their compliance with the agency's standards, the effectiveness of the standards, and the agency's application of those standards.

The regulations at 34 C.F.R. § 602.31(e) state that Department staff will document the evaluation:

- [W]hen Department staff completes its evaluation of the agency, the staff—
- (1) Prepares a written analysis of the agency, which includes a recognition recommendation. . . .

Office of Management and Budget (OMB) Circular A-123 on Management Accountability and Control (June 21, 1995) requires that Federal agencies and individual Federal managers take systematic and proactive measures to develop and implement appropriate, cost-effective management controls for results-oriented management. The Circular states that “[m]anagement controls are the organization, policies, and procedures used to reasonably ensure that (i) programs achieve their intended results; (ii) resources are used consistent with agency mission; (iii) programs and resources are protected from waste, fraud, and mismanagement; (iv) laws and regulations are followed; and (v) reliable and timely information is obtained, maintained, reported and used for decision making.”

The GAO’s *Internal Control Standards* defines the minimum level of quality acceptable in internal controls in government and provides the basis against which internal controls are to be evaluated. The standards apply to all aspects of an agency’s operations: programmatic, financial, and compliance. GAO’s *Internal Control Standards* states that management is responsible for developing the detailed policies, procedures, and practices to fit their agency’s operations and to ensure that they are built into and an integral part of operations.” The standards state that “[I]nternal controls... need to be clearly documented, and the documentation should be readily available for examinations.”

AAEU Has Limited Written Procedures and Other Guidance for Use in Conducting Evaluations

AAEU has only limited written procedures or other guidance for implementing its responsibilities outlined in 34 C.F.R. § 602.31(b), (c), and (e), and reviewing changes in standards or procedures during an accrediting agency’s recognition period. The written procedures and guidance available consisted of the regulations, AAEU’s *Checklist for Analysis of Accrediting Agencies’ Petitions for Recognition* (Checklist), and the text of two presentations by a former AAEU chief entitled “Student Achievement” and “Validity and Reliability.”⁴ AAEU has no written procedures or other guidance for conducting site visits, reviewing information directly related to institutions or programs accredited by the agency, or reviewing changes in an accrediting agency’s standards or procedures during its recognition period.

Checklist Is Inadequate for Reviews of Accrediting Agencies’ Standards. The Checklist provided specialists with little, if any, guidance for evaluating accrediting agency standards. The regulation at 34 C.F.R. § 602.16(a) states—

⁴ The text of the presentation titled “Validity and Reliability” addresses the change in the regulations, issued October 20, 1999, which changed the terms used to describe the requirements of the accrediting agency’s program of review. The previous regulations required the program of review to demonstrate that accreditation standards were “valid” and “reliable. The current regulations use the terms “adequate” and “relevant.”

The [accrediting] agency must demonstrate that it has standards for accreditation... that are sufficiently rigorous to ensure that the agency is a reliable authority regarding the quality of the education and training provided by the institutions and programs it accredits. The agency meets this requirement if— (1) The agency’s accreditation standards effectively address the quality of the institution or program in the following areas.... [Emphasis added.]

The regulation at 34 C.F.R. § 602.21(a) states—

The agency must maintain a systematic program of review that demonstrates that its standards are adequate to evaluate the quality of the education or training provided by the institutions and programs it accredits and relevant to the educational or training needs of students.” [Emphasis added.]

Thus, standards for the listed areas must be effective and adequate for evaluating the quality of accredited institutions and programs, and relevant to the needs of students enrolled in those institutions and programs.

The Checklist contained the full text of 34 C.F.R. § 602.16, for the ten areas that must be addressed by an accrediting agency’s standards along with review indicators for each area. The review indicators were basically the same for each area. For student achievement and program length, the review indicators were:

- The agency has established a reasonable and appropriate threshold for quality in the area of success with respect to student achievement, i.e. there is a plausible rationale for the standard rooted in educational quality.
- The agency has established a reasonable and appropriate threshold for quality in the area of measures of program length, i.e. there is a plausible rationale for the standard rooted in educational quality.

The Checklist does not define the terms: reasonable and appropriate threshold for quality, plausible rationale, or rooted in educational quality. Also, the Checklist does not provide guidance for applying the terms during an evaluation to determine that the accreditation standards are effective, adequate, and relevant. For example, the Checklist does not provide guidance on how a specialist should evaluate the standards on program length for the four accrediting agencies we reviewed.

- One regional accrediting agency’s standard for undergraduate programs stated that “[a]n institution must clearly define what is meant by a major or an area of concentration and must state the number of credits required for each. An adequate number of hours with appropriate prerequisites must be required in courses above the elementary level.” The standard also stated that “[t]he institution must demonstrate that program length, clock hours or credit hours, and tuition and fee charges are appropriate for the degrees and credentials it offers.” Neither the accrediting agency’s standards nor other documents defined or provided criteria for a “credit hour.”
- The other regional accrediting agency’s standard was primarily addressed within its general requirement that “[The institution’s] degrees are appropriately named, following practices common to institutions of higher education in terms of both length and content of the

programs.” In addition, the agency’s Handbook of Accreditation required institutions to be able to equate their learning experiences with semester or quarter credit hours using practices common to institutions of higher education; justify the lengths of their programs in comparison to similar programs found in accredited institutions of higher education; and explain in their catalogs, student handbooks, or self-studies, how the institutions calculate equivalencies, if they do not use semester or quarter credit hours as the basic measure of their learning experiences. The handbook did not explain what was considered “common practice” for institutions of higher education, the basis for determining that programs are similar, or acceptable calculation of equivalencies.

- One national accrediting agency’s standard stated “the length of each program offered by the school is appropriate to enable students to achieve the program objectives and to acquire the knowledge and skills necessary for initial employment in the field for which training is provided. The agency’s standard specified minimum length in credit hours for occupational associate degrees, academic associate degrees, and baccalaureate degrees, but did not specify a minimum length for vocational non-degree granting programs. The other national accrediting agency required institutions to meet state minimum requirements for program length and specified a model to be used to assess program lengths in excess of the state minimum. Both accrediting agencies defined a credit hour in terms of the amount of instruction required, but neither specified the amount of outside preparation a student should be expected to complete for each credit hour.

For evaluating accrediting agencies’ standards for success with respect to student achievement, the text of AAEU’s presentation titled “Student Achievement” described a framework that would be used by the specialists:

Our “framework” is to see if (1) the agency has a real standard for success with respect to student achievement and it is clear, (2) the standard is numerical, if that’s appropriate, or contains numerical aspects, if that’s appropriate, (3) the agency’s approach to the assessment of success with respect to student achievement is multi-dimensional, (4) the agency’s approach contains all of what would generally be accepted as appropriate components, given the nature of the agency, the type of institutions and programs, and the field, (5) the agency makes appropriate use of success with respect to student achievement in its accrediting decisions, its monitoring of institutions and programs, and its efforts to require institutions and programs to apply the results toward improving quality of education, and (6) there is evidence that the agency’s standards for success with respect to student achievement are in fact effective.

The described framework contains steps for evaluating the effectiveness, adequacy, and relevance of an accrediting agency’s student achievement standard. However, there is no assurance that AAEU specialists applied the framework since the steps were not incorporated into the Checklist. For evaluating accreditation standards on measures of program length, AAEU provided the specialists with no additional guidance.

Checklist Is Inadequate for Review of Accrediting Agency’s Policies and Procedures. While the Checklist generally covered the required accrediting agency policies and procedures, it did not fully address the regulation at 34 C.F. R. § 602.21(a) concerning the accrediting

agency's systematic program of review. The Checklist contained the review indicator "There is evidence that the agency's standards are widely accepted as adequate to evaluate educational quality and relevant to the educational or training needs of student." The fact that accreditation standards are "widely accepted" does not in itself fully address the requirement in the regulation that the systematic program of review demonstrates that accreditation standards are adequate and relevant.

Also, the review indicator does not adequately reflect the steps described in the text of the presentation "Validity and Reliability." The presentation, which described the framework that AAEU would use to evaluate an accrediting agency's systematic program of review, states that AAEU would look for "evidence that the agency's systematic program of review is in fact effective, i.e. [ensures that standards are] adequate to measure quality and relevant to the education needs of student."

No Guidance Provided for Site Visits and Reviews of Institutional Files and Other Information. AAEU has not provided its specialists with guidance on the type or number of site visits to be conducted as part of the evaluations, or when specialists should include reviews of institutional information. Our work for the four reviewed accrediting agencies found that the specialists' site visit activities varied among the accrediting agencies.

	Accrediting Agency			
				National #2
Number of accrediting agency commission meetings attended	1	---	1	2
Reviewed institutional files at the accrediting agency	---	---	Yes	Yes
Number of observed accrediting agency site visits to institutions ^(a)	---	1	4	3
^(a) Since this activity is at the institution, it does not meet the regulatory requirement that the Department staff have site visits to the accrediting agency.				

As shown in the above table under Regional #2, one specialist did not make at least one site visit to the accrediting agency as required by 34 C.F.R. 602.31(b)(1). Also, we found that AAEU did not have procedures for specialists to use when visiting accrediting agencies, attending commission meetings, reviewing institutional file, or observing the accrediting agencies' institutional site reviews.

No Procedures for Conducting Reviews of Changes in Standards and Procedures Made During the Recognition Period. The regulation at 34 C.F.R. § 602.27(d) requires accrediting agencies to submit to the Department "[a]ny proposed change in the agency's policies, procedures, or accreditation standards that might alter its— (1) Scope of recognition; or (2) Compliance with the criteria for recognition...." AAEU has no written procedures for reviewing proposed changes in standards or procedures submitted during the agency's recognition period or confirming that accrediting agencies appropriately addressed AAEU's comments provided on the changes.

One of the accrediting agencies in our review was conducting a systematic program of review and reorganization of its standards at the time the AAEU specialist conducted the review for renewal of the agency's recognition. According to the Unit Chief, the accrediting agency submitted the proposed standards as required by the regulations and the AAEU specialist provided verbal comments to the accrediting agency. However, we found no evidence of this activity in AAEU's file since the specialist did not document either the review or discussion with the accrediting agency. Also, the specialist did not subsequently review the finalized standards. Since AAEU has no written procedures for reviewing changes made during the recognition period, there is no assurance that such reviews are done or that the review are thorough and consistent, and the specialists' comments on proposed changes were addressed in the implemented standards or procedures.

AAEU Does Not Require Specialists to Fully Document Their Evaluations

The HEA § 496(n)(4) states that "[t]he Secretary shall maintain sufficient documentation to support the conclusions reached in the recognition process. . . ." GAO's *Internal Control Standards* states that "all transactions and other significant events need to be clearly documented, and the documentation should be readily available for examination" and that "[a]ll documentation and records should be properly managed and maintained."

The only documents prepared by the specialists that we found in the AAEU files for the four accrediting agencies were the reports submitted to the NACIQI. We found that the AAEU specialists did not fully document the basis for their determinations that the accrediting agencies met the regulations in the AAEU reports. For the most recently renewed accrediting agency, the AAEU specialist located in his personal records the completed Checklist and the *Regulation Compliance/Documentation Summary Table* that was prepared to link the Checklist elements to the accrediting agency documents used in the evaluation.⁵ The Checklist and summary table also did not document the basis for the specialist's determination.

AAEU Reports to NACIQI on Renewal of Recognition. The AAEU reports for the four reviewed accrediting agencies generally summarized the standards and procedures described in the accrediting agencies' petition and exhibits submitted with the petition. The AAEU reports also disclosed the commission/decision meetings and institutional site reviews attended and institutional file reviews conducted by the specialists.

The AAEU report for the accrediting agency with the most recent renewal of recognition, which recommended renewal of recognition for a period of five years, did not state the specialist's determination on individual requirements or the basis for his overall determination that the agency "substantially complies with the Criteria for Recognition." Also, the report did not address two areas specified in the regulations: 34 C.F.R. § 602.22 Substantive change and 34 C.F.R. § 602.20 Enforcement of standards. While the completed Checklist documented the specialist's determinations on the individual requirements, including the two cited regulations, this information was not communicated to NACIQI. We also found that the report did not explain the specialist's

⁵ According to the Unit Chief, AAEU specialists began using the Checklist in Fall 2000 to document their evaluations of accrediting agency standards and procedures. The evaluation of one of the four accrediting agencies occurred after implementation of the Checklist. Previously, AAEU specialists did not use a standard form during their evaluations.

basis for the type and number of site visits, the information gained from the one site visit conducted, or how the information gained from the site visit was used in the evaluation.

The AAEU reports for the other three accrediting agencies were prepared using a former report format. These reports presented the specialists' determination on individual requirements, but did not explain the basis for their determination for one or more of the requirements. Two of the reports described how information gained from site visits or file reviews were used in their evaluation for only one or two of the requirements and the other report made no mention of such information.

Specialist Completed Checklist/Summary Table. The completed Checklist for one accrediting agency had an "X" in the box next to each review indicator and referenced the documents provided in the accrediting agency's petition for renewal that were used by the specialist in making the determination. The review indicators, which consisted primarily of "yes/no" statements, did not prompt the specialist to explain the basis. For example, the Checklist included the statement "The agency has demonstrated that it follows its substantive change policy," rather than, "How did the agency demonstrate that it followed its substantive change policy?" The summary table listed the regulation section and the documentation reviewed for the section, but provided no information explaining the basis for the specialists' determination.

AAEU Reports Did Not Identify Limitations or Weaknesses Noted in OIG Reviews

The AAEU reports on renewal of recognition for the four accrediting agencies did not address the limitations and management control weaknesses found in the OIG reviews of the individual agencies. Also, we did not agree with an AAEU specialist's conclusion on an accrediting agency's interim report.

None of the AAEU reports for the four accrediting agencies addressed the limitations and management control weaknesses found in the OIG reviews.⁶ For example, one OIG review found that an accrediting agency's policy on institutions reporting substantive changes did not address changes from clock to credit hours and substantial increases in clock or credit hours. The review also found that the agency's policy on reporting changes in educational delivery method only addressed degree programs offered through distance delivery methods. Although the standards had not changed, the AAEU report on the accrediting agency's petition for continued recognition did not mention these deficiencies. Even though the specialists' evaluations were conducted at different times than ours, the specialists should have identified some of the limitations and management control weakness identified in our reviews.

Three of the four accrediting agencies were required to submit interim reports as a condition of their renewal of recognition by the Secretary. AAEU specialists reviewed the interim reports and provided NACIQI with the status of corrective actions. For one of the accrediting agencies, we disagreed with the specialist's conclusion that the accrediting agency had taken the necessary corrective actions. The agency was required to submit an interim report to demonstrate that it tracked and evaluated state licensing examination pass rates. We found that the accrediting agency was collecting state licensing examination data from its institutions, but had not established a

⁶ ATTACHMENT 1 summarizes the suggestions for improving standards and management controls presented in the OIG Management Information Reports for the four reviewed accrediting agencies.

standard for state licensing examination pass rates or begun evaluating institutional performance to that standard.

Recommendations

We recommend that the Assistant Secretary for Postsecondary Education require that AAEU:

- 2.1 Develop and implement additional written procedures for AAEU specialists to use in conducting evaluations of accrediting agencies for recognition by the Secretary. The written procedures should include, but not be limited to—
 - Guidance tailored to each required standard, including student achievement and program length,
 - Definitions and examples for terms, such as “appropriate threshold for quality” and “plausible rationale,” and
 - Guidance on number and type of site visits and institutional file reviews to be conducted in evaluations and how the site visits and file reviews should be documented and used in the evaluations.

To facilitate development of the procedures, we suggest that AAEU conduct a self-assessment using the GAO’s *Internal Control Management and Evaluation Tool*.

- 2.2 Develop and implement additional written procedures for AAEU specialists to use in conducting evaluations of accrediting agencies’ interim reports and changes in standards and procedures submitted during an accrediting agency’s recognition period.
- 2.3 Expand the section of its Checklist covering the accrediting agency’s systemic program of review to fully address 34 C.F.R. § 602.21 and the presentations titled “Student Achievement” and “Validity and Reliability.”
- 2.4 Revise the Checklist to prompt the specialists to document after each requirement their conclusion and the basis for concluding that the accrediting agency met or did not meet the specific regulation.
- 2.5 Require its specialists to prepare a written evaluation plan, identifying the overall approach, areas of special concern and purpose, number and type of site visits and file reviews.
- 2.6 Retain in its files the completed Checklists and other specialist-prepared documents used to support the specialists’ evaluations.

OPE Comments

In its response to the draft report, OPE partially concurred with our recommendations to improve AAEU management controls. OPE stated that it is reluctant to stipulate the number of site visits and institutional file reviews necessary for an evaluation since the need for these activities varies with the particular circumstances of each accrediting agency and may not be known until the review is underway. OPE did not concur with our recommendation to revise the Checklist to prompt specialists to document their conclusions and basis for the conclusions for each requirement. OPE stated that this recommendation would significantly increase staff workload while not necessarily

adding to the quality of the staff analysis. OPE stated that NACIQI had requested that staff analysis be streamlined and that the multiple levels of supervisory review of draft analyses and the multi-step decision-making process followed ensure appropriate identification and review of those areas where the analyst determines the agency to be in compliance. OPE has reserved comment on our recommendation to retain completed Checklists and other specialist-prepared documents in its files. OPE expressed concern that such documents could be viewed as public documents and, as such, be subject to requests under the Freedom of Information Act. OPE also stated that the intent of its process is to work with an agency to bring it into compliance and that the process protects the agency from public release of potentially embarrassing information that is subsequently corrected. OPE is seeking an opinion from the Department's Office of General Counsel on this matter. OPE agreed to take action on the other recommendations.

OIG Response

Our recommendations remain unchanged. While we agree that AAEU should not stipulate a specific number or type of site visits and institutional file reviews for each evaluation, it should provide specialists with general guidance to use when making their decisions on site visits and file reviews. As mentioned in the report, our review of the evaluations for the four accrediting agencies found that the specialists' site visit activities varied among the accrediting agencies and, in one case, the specialist did not make at least one site visit to the accrediting agency as required by the regulations. By issuing general guidance, AAEU procedures would provide a higher level of assurance that the specialists' evaluations provide consistent coverage of the accrediting agencies' activities and that the specialists comply with applicable regulations.

We do not agree with OPE's statement that requiring specialists to document their conclusion and basis for that conclusion for each requirement would significantly increase staff workload. AAEU specialists are already required, as part of the evaluation process, to reach conclusions as to an accrediting agency's adherence to each of the specific regulatory requirements. In order to reach such a conclusion, the specialists would need to form a basis for the conclusion. Thus, the only additional step added by our recommendation is the documentation of the conclusion and basis. AAEU specialists that have performed an adequate evaluation should require little additional time to prepare a brief written explanation of the basis for their conclusions.

We disagree with OPE's statement that requiring specialists to document conclusions and the basis for the conclusions would not necessarily add to the quality of the evaluation. The process of articulating the basis in writing would provide the specialists with an opportunity to review their conclusions. Also, the documentation would facilitate and enhance the effectiveness of supervisory reviews to ensure that the analyses were thorough and consistent with analyses of other accrediting agencies, and that specialists' conclusions were appropriate. The retention of the documentation in AAEU files is needed to comply with the HEA requirement to maintain sufficient documentation to support the conclusions reached in the recognition process. We disagree with OPE's position that documents prepared by specialists should not be retained in order to protect agencies from potential embarrassment.

FINDING NO. 3 – AAEU Has No Documented Supervisory Review Process and Relies on Individual Specialists' Evaluations

AAEU has no documented supervisory review process. Also, AAEU relies on an individual specialist to evaluate an accrediting agency's standards and procedures. GAO's *Internal Control Standards* states "[q]ualified and continuous supervision should be provided to ensure that internal control objectives are achieved." The *Standards* also state "[n]o one individual should control all key aspects of a transaction or event" and that management has a key role in "removing temptations for unethical behavior."

Supervisory Reviews. AAEU has no written procedures for supervisory review of the specialists' work or decisions. According to the Unit Chief, a documented review process was not needed since the specialists were experienced and exercise good judgment. The Unit Chief stated that she reviewed draft AAEU reports prior to sending the reports to the accrediting agency for comment. For the four reviewed accrediting agencies, AAEU files contained no evidence that a review was performed or that the supervisor agreed or disagreed with the specialists' determinations.

AAEU could improve its management controls by implementing a documented supervisory review process that includes reviews of the specialists' evaluation plans prior to implementation, the completed Checklist documenting the specialists' conclusions, draft reports sent to accrediting agencies, reports to NACIQI, and other specialist-prepared forms and reports. To facilitate documentation of supervisory reviews, AAEU could add a section to the Checklist for the Unit Chief to document her review of the specialist's conclusions and basis for the conclusions. Also, AAEU could develop a form for the Unit Chief to use in documenting her review and approval of draft AAEU reports.

Reliance on Individual Specialist. AAEU assigns one specialist to perform the review of an accrediting agency's petition for recognition. The specialist makes the decision on whether the accrediting agency has the required accreditation standards and procedures for monitoring and enforcing the standards. AAEU's reliance on individual specialists may impact the quality and thoroughness of the evaluations.

We are also concerned that assigning one specialist the responsibility for designing and conducting the entire review, with minimal supervision, could subject the specialist to undue influence by the accrediting agency being reviewed. While we found no indications that AAEU specialists were subject to undue influence by accrediting agency officials, management does have the responsibility to mitigate, when possible, an employee's exposure to such potential influence.

Recommendations

We recommend that the Assistant Secretary for Postsecondary Education require that AAEU:

- 3.1 Ensure that supervisory reviews are performed and written procedures for conducting and documenting the review are implemented, including documenting whether the supervisor agrees or disagrees with the specialists' determinations.

- 3.2 Has more than one specialist on site when conducting accrediting agency site visits and observing accrediting agency institutional reviews.

OPE Comments

In its response to the draft report, OPE agreed to document procedures for supervisory reviews, but did not agree with our recommendation to have more than one specialist present when conducting accrediting agency site visits and observing accrediting agency institutional reviews. OPE stated that such decisions are better made on a case-by-case basis.

OIG Response

Our recommendation remains unchanged. Supervisory reviews may mitigate the risks associated with assigning a sole specialist to perform the evaluation of an accrediting agency's written standards and procedures. However, given the critical role of accreditation in the oversight of programs authorized by the HEA, such reviews do not provide sufficient oversight of the specialist's activities and decisions while conducting site visits and file reviews. Also, by assigning only one specialist for site visits, the Department has not met its obligation to remove temptations for unethical behavior.

FINDING NO. 4 – AAEU Specialists Do Not Contact Other Department Units and Agencies

As part of their evaluations of accrediting agencies, AAEU specialists do not contact other Department units, state agencies, guaranty agencies, or others that may have pertinent information on accredited institutions. GAO's *Internal Control Standards* states "[e]ffective communications should occur in a broad sense with information flowing down, across, and up the organization" and "management should ensure there are adequate means of communicating with, and obtaining information from, external stakeholders that may have a significant impact on the agency achieving its goals".

The regulations at 34 C.F.R. § 602.31(a)(2) and (3) require Department staff to solicit public comment by publishing a notice of the review of the agency in the Federal Register and provide copies of the notice to state licensing/authorizing agencies, other recognized accrediting agencies, and other appropriate organizations. AAEU complied with this requirement. However, AAEU did not require the specialists, as part of their evaluations, to contact the relevant state agencies, guaranty agencies, or other Departmental units within the Office of Postsecondary Education, Federal Student Aid, and the Office of Inspector General. State licensing/approving agencies may have collected adverse information on institutions accredited by the accrediting agency under review. Other Departmental units with policy and monitoring responsibilities for HEA, Title IV programs may have relevant information on accredited institutions. Direct contact with these agencies and Departmental units could alert AAEU specialists to weaknesses in accreditation standards and accrediting agency's procedures for monitoring and enforcing the standards at accredited institutions.

Recommendation

- 4.1 We recommend that the Assistant Secretary for Postsecondary Education require that AAEU include in its procedures that specialists contact other Department units and selected state agencies prior to conducting evaluations of accrediting agencies for renewal of recognition by the Secretary.

OPE Comments

In its response to the draft report, OPE stated that the information provided through contacts with Department units and state agencies is generally collected and maintained at the individual institution level and that anecdotal information about a single school or a small number of schools is insufficient to establish an accrediting agency's pattern of behavior. OPE stated that, as an alternative, it is evaluating available Departmental databases to determine if they contain data that would be informative to the specialists. If useful information is identified, OPE will explore generating reports from those databases for its specialists. OPE stated that it might also explore obtaining information from databases maintained by state agencies.

OIG Response

We support OPE's decision to evaluate information available on databases maintained by the Department and state agencies, however, our recommendation remains unchanged. While anecdotal information may not be sufficient to draw conclusions regarding an accrediting agency's adherence to the HEA and regulations, the information could provide valuable insight into areas of focus during the evaluation.

OBJECTIVE, SCOPE, AND METHODOLOGY

The objective of the audit was to evaluate AAEU's management controls for ensuring that accrediting agencies recognized by the U.S. Department of Education (1) have established standards to address institutions' success with respect to student achievement and measures of program length, (2) monitor institutions' adherence to the standards throughout their accreditation, and (3) take consistent enforcement action when institutions are not in compliance with the standards.

We focused our review on AAEU's policies and procedures for evaluating accrediting agencies for renewal of recognition by the Secretary. We reviewed the HEA and applicable regulations, OMB Circular A-123 on Management Accountability and Control, and GAO's *Internal Control Standards* and *Internal Control Management and Evaluation Tool*. We also reviewed AAEU's *Guide to Submitting a Petition for Recognition: Review Elements and Suggested Agency Documentation*, and *Checklist for Analysis of Accrediting Agencies' Petitions for Recognition*. We interviewed the Director for Accreditation and State Liaison Staff, the AAEU Unit Chief, and AAEU specialists. We reviewed the findings presented in prior OIG reports on accrediting agencies.

To confirm that AAEU adhered to its policies and procedures for accrediting agency recognition, we reviewed AAEU files and reports for 2 of the 6 regional accrediting agencies that were degree granting and 2 of the 29 national accrediting agencies that provided institutional accreditation for institutions participating in HEA, Title IV program. We also interviewed the AAEU specialists that performed the reviews of the four selected accrediting agencies. We judgmentally selected the four accrediting agencies that represented the agencies with the highest number of institutions accredited within their respective categories. The four selected accrediting agencies are identified in Attachment 1 of the report. We compared the limitations and management control weaknesses identified in the OIG reviews of the four selected accrediting agencies with the evaluation conclusions presented in AAEU reports.

We performed fieldwork at the AAEU office in Washington, D.C. from February 26 through March 1, 2002 and from June 17 to June 21, 2002. During March 2002 through January 2003, we initiated and completed the reviews at the four selected accrediting agencies. We held an exit briefing with AAEU officials on February 10, 2003. Our review was performed in accordance with generally accepted government auditing standards appropriate to the scope of the review.

STATEMENT ON MANAGEMENT CONTROLS

We assessed the system of management controls, policies, procedures, and practices applicable to AAEU's process for evaluating accrediting agencies' standards for student achievement and program length and the agencies' monitoring and enforcement of those standards at accredited institutions participating in HEA, Title IV programs. We performed our assessment to determine whether AAEU's processes provided a reasonable level of assurance that accrediting agencies established the required standards, ensured that accredited institutions adhered to established standards, and, took consistent enforcement action when institutions were noncompliant. For the purpose of this report, we assessed and classified significant controls related to AAEU's process for evaluation accrediting agencies into the following categories:

- Conducting evaluations and reporting on petitions for renewal of recognition by the Secretary,
- Conducting evaluations of interim reports required by the Secretary, and
- Conducting reviews of proposed changes in standards and procedures submitted during the accrediting agency's recognition period.

The management of AAEU is responsible for establishing and maintaining a management control structure. In fulfilling this responsibility, judgments by management are required to assess the expected benefits and related costs of control procedures. The objectives of the system are to provide management with reasonable, but not absolute, assurance that accrediting agencies have required accreditation standards and procedures to ensure institutions adhere to the standards, and that enforcement action is taken when institutions are found to be noncompliant with the standards.

Because of inherent limitations in any management control structure, errors and irregularities may occur and not be detected. Also, projection of any evaluation of the system to future periods is subject to risk that procedures may become inadequate because of changes in conditions, or that the degree of compliance with the procedures may deteriorate.

We concluded that AAEU does not have sufficient management controls to provide a reasonable level of assurance that accrediting agencies established the required standards, ensured that accredited institutions adhered to established standards, and took consistent enforcement action when institutions were noncompliant. As discussed in the AUDIT RESULTS section, we found that AAEU does not require regional accrediting agencies to establish quantitative student achievement standards for institutions offering vocational education programs. We also found that AAEU has limited written procedures and other guidance for use in conducting evaluations, does not require specialists to fully document their determinations, has no formal supervisory review process, relies on individual specialists' evaluations and decisions for recognition recommendations, and does not contact other Department units or other agencies as part of the review process.

ATTACHMENT 1

Summary of OIG Suggestions Made to Selected Accrediting Agencies for Enhancing Standards and Strengthening Management Controls

Summary of OIG Suggestions Made to Selected Accrediting Agencies for Enhancing Standards and Strengthening Management Controls

	Regional #1	Regional #2	National #1	National #2
Accrediting Agency	North Central Association of Colleges and Schools ED-OIG/A09-C0016	Southern Association of Colleges and Schools, Commission on Colleges ED-OIG/A09-C0018	National Accrediting Commission of Cosmetology Arts and Sciences ED-OIG/A09-C0019	Accrediting Commission of Career Schools and Colleges of Technology ED-OIG/A09-C0017
Last Renewal of Recognition	1997	2001	1999	1999
Standards addressing student achievement	- Develop standards that are sufficiently concrete and specific to permit the agency to determine whether an institution is compliant or noncompliant. - Study the measures used in assessment programs at institutions with similar purposes and programs and developing measures for incorporation in the agency's standard for student achievement. - Establish quantitative standards for completion rates, job placement rates, and pass rates on State licensing examinations, as applicable, for certificate and degree programs with vocational objectives. - Provide additional guidance with actual examples of the types of student assessment measures and methods an institution might use for a particular institutional mission and purpose.	- Revise its new standard for student achievement to explicitly state that programs must fulfill the institution's defined expected educational results. - Analyze the measures used in assessments at institutions with similar programs and developing measures for incorporation in the agency's standard for student achievement. - Establish quantitative standards for completion rates, job placement rates, and pass rates on State licensing examinations, as applicable, for vocational education programs offered by its accredited institutions.	- Require its Advisory Committee on Validity and Reliability to conduct quantitative analyses of institutions' past completion, licensure, and placement rates as part of its evaluation to ensure that the minimum levels provide an adequate and relevant measure of educational quality. - Revise the completion rate formula by removing from the list of exempt students those students who failed to maintain satisfactory attendance and academic progress, and students who completed the program outside 150 percent of the course. - Either revise the placement rate formula by removing from the list of	- Eliminate the "withdrawn employed in field" category of students from the completion rate formula. The inclusion of these students overstates a program's completion rate since the students did not complete the educational program. - Define a minimum employment period for acceptable placements. Under its current procedures, employment of one-day duration could be considered a placement for purposes of calculating the placement rate.

Attachment 1
Page 2 of 4

	Regional #1	Regional #2	National #1	National #2
Standards addressing program length	▪ Describe the Carnegie formula in written guidance, explicitly stating that institutions should use this method and, if they do not, must submit written justification for any deviation. ▪ Provide guidance on documenting justifications for deviations from the Carnegie method. ▪ Include in its policy addressing systematic program of review a statement that the advisory panel that meets every five years will comprehensively review each accreditation standard individually, as well as the standards as a whole.	▪ Provide institutions with written guidance on "sound and acceptable practices" for assigning credit hours to programs. The guidance should include the agency's formulas for assigning credit hours, required levels of outside preparation, and a requirement that institutions submit a written justification for any deviation from the guidance.	ineligible students those students who failed to take the state licensing examination <u>or</u> include a separate minimum rate that measures placement for all students who complete the program. ▪ Define the type and period of employment for placements reported in Annual Reports.	▪ Define amount of outside preparation expected for each assigned credit hour.

Attachment 1
Page 3 of 4

	Regional #1	Regional #2	National #1	National #2
Management controls for ensuring adherence to standards	- Provide peer reviewers specific guidance for evaluating institutions' assessment programs with respect to student achievement, including actual examples of the types of student assessment measures that are appropriate for a particular learning outcome and suitable benchmarks. - Require institutions to articulate in the self-study report the definition of success with respect to student achievement and student outcome results. - Require peer reviewers to examine and report on institutions' success with respect to student achievement. - Require peer reviewers to confirm the institution's use of the Carnegie formula for determining credit hours and report on the validity of justifications for any deviation. - Ensure that its substantive change policies are consistent with regulatory requirements by including in its policy changes from clock hours to credit hours, substantial increases in clock or credit hours, and changes in delivery method for all programs, not just distance education programs.	- Require peer evaluators to confirm the institution used SACs' formulas for determining credit hours and report on the validity of justifications for any deviation. - Require peer evaluators to report on institutional success with respect to student achievement for each educational program and the institution overall. - Implement procedures to monitor institutions' adherence to the standards for student achievement during the accreditation period. For example, consider adding a requirement in its substantive change policy that institutions inform the accrediting agency of changes in their systems for determining institutional effectiveness. Also, consider having institutions provide the results of their assessments of student achievement for each educational program as part of their annual reports.	- Include, as part of its Annual Report Verification Study, a verification of supporting documentation for the number of "exempt students" reported by institutions. - Have site visit teams include in their Team Reports the results of accrediting agency staffs verification of Annual Report data and the basis for concluding that institutions met the standards for student achievement and measure of course length. - Have the designated and testing evaluation teams utilize and reconcile any conflicting findings to ensure that the institution addresses all identified problems.	Include a question on the site visit checklist on whether the institution adhered to the guidance provided in its Application for Clock Hour to Credit Hour Conversion when the institution determined the credit hours for each of its programs.

Attachment 1
Page 4 of 4

	Regional #1	Regional #2	National #1	National #2
Management controls for ensuring enforcement of standards	We could not determine the effectiveness of the accrediting agency's management controls for ensuring consistent enforcement action is taken when institutions are not in compliance with established standards for student achievement and measures of program length. The agency's standards are general in nature, subjective judgments were used to determine adherence to standards, and the agency's institutional files contained insufficient documentation. Under current procedures, the agency has not needed to take enforcement action, because institutions have not failed or could not fail these standards.	None.	▪ Define the "special circumstances" that NACCAS would consider when deciding whether to withdraw accreditation for institutions not meeting its minimum completion, licensure, and placement rates. ▪ Utilize and reconcile areas where there are differences in the conclusions reached by designated and testing file review teams when making accrediting decisions.	▪ Define "good cause" for extending time limits for institutions to come into compliance with standards.

NOTE: The OIG reviews were limited to standards addressing student achievement and program length and the management controls for monitoring accredited institutions' adherence to those standards and taking enforcement actions when institutions were found to be noncompliant. The cited OIG Management Information Reports, available at www.ed.gov/offices/OIG/, provide more information on the OIG suggestions.

ATTACHMENT 2

OPE Comments on the Draft Report



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF POSTSECONDARY EDUCATION

APR 29 2003

THE ASSISTANT SECRETARY

Ms. Gloria Pilotti
 Regional Inspector General for Audit
 501 I Street, Room 9-200
 Sacramento, CA 95814

Dear Ms. Pilotti:

Thank you for the opportunity to respond to the Office of Inspector General's draft audit report, Office of Postsecondary Education, Accrediting Agency Evaluation Unit's Review of Selected Accrediting Agency Standards and Procedures (ED-OIG/A09-C0014).

I want to note at the outset that much of our reaction to this audit report is shaped by the proximity of reauthorization of the Higher Education Act (HEA). We fully expect Congress to complete revisions to HEA before it adjourns next year. In addition, we believe that reauthorization could bring significant changes in the requirements placed on accrediting agencies and, consequently, in the work performed by the Accrediting Agency Evaluation Unit (AAEU). We are, therefore, hesitant to commit time and resources to major changes in interpretations of law and regulations and in work processes when those activities in all likelihood would need to be revisited in the wake of reauthorization.

Let me now turn to specific findings and recommendations in the audit report.

Finding No. 1 – OIG found that AAEU does not require regional accrediting agencies to establish quantitative student achievement standards for vocational education programs imbedded in schools that have institutional accreditation. OPE acknowledges that requiring the reporting of this data would provide useful information on program quality to accrediting agencies and to the public. But implementing this change would reverse ten years of interpretation of statute and regulations. We have reviewed this issue and believe that the statute and regulations are deliberately non-specific on this point. We believe that both the current interpretation and OIG's suggested interpretation are permissible under current law and that the decision as to which to implement is a policy matter. In light of this, OPE prefers to defer action in this area pending reauthorization of HEA to see if Congress provides a clearer indication of the requirements to which regional accrediting agencies are to be held. Therefore, OPE does not concur with Finding No. 1 or with the recommendations under it.

Finding No. 2 – OIG found that AAEU has limited written procedures and documentation of its work procedures and processes. OPE believes that this finding raises an important issue to the extent that it bears on providing guidance to accrediting agencies and insuring that Department interpretations of statute and regulations are accurate and consistent. We think several of the OIG's recommendations should and can be implemented. However, some of the recommendations would significantly increase staff workload without contributing to appreciable improvements in the quality of staff analyses and oversight of accrediting agencies. Therefore, OPE partially concurs with Finding No. 2.

OPE partially concurs with recommendation 2.1, and the ASL Director will work with the AAEU Branch Chief and staff to develop guidance for each of the criteria bearing on the evaluation of an accrediting agency. This activity will include, to the maximum extent possible, creating definitions and examples of general terms such as "appropriate threshold for quality." This activity will lead to revisions in the guidance provided to accrediting agencies and in the checklist used by staff analysts in their evaluations. For several reasons we are reluctant to stipulate the number of site visits and agency file reviews necessary for an evaluation. The need for these actions varies with the particular circumstances of each agency under review. The ability to conduct these activities is affected by factors, such as budget, that are beyond the control of OPE. Often the need for site visits and file reviews only becomes apparent after the review of the agency is underway and specific problems are identified.

We believe that the actions proposed in response to recommendation 2.1 render those in 2.2 redundant. Interim reports result from an agency's failure to comply with the provisions of one or more criteria. The guidance developed for each of the criteria would also apply to an analyst's review of an interim report. This would also apply in cases of substantive changes in an agency's standards and procedures during the period of recognition. Guidance to staff will make it clear that a review against the identified tests is required whenever an agency makes changes of this nature.

The recommendations under 2.3 would also be addressed in the proposed response to 2.1. It is our intent that our revised guidance address all of the Secretary's Criteria for Recognition.

OPE does not concur with recommendation 2.4. While we appreciate the utility of internal controls and acknowledge that they may facilitate future audits, they would significantly increase staff workloads while not necessarily adding to the quality of staff analyses. In the past, as OIG noted in its report, AAEU staff prepared extensive analyses that addressed all criteria. These analyses averaged 80 to 120 pages in length. Members of NACIQI requested that the staff analyses be streamlined, which led to the current format that provides an overview of the agency and highlights areas of concern or non-compliance. We believe that the multiple levels of supervisory review of draft analyses and the multi-step decision-making process followed insure appropriate identification and review of those areas where the analyst determines the agency to be in compliance.

OPE concurs with recommendation 2.5. Staff analysts will be required to prepare a brief evaluation plan for each agency addressing the projected number of site visits and file reviews and any issues with the agency identified during the current recognition period.

OPE reserves comment on recommendation 2.6. Our concern is that checklists and other documents retained in files could be viewed as public documents and be subject to FOIA requests. We are seeking an opinion from OGC on this matter. As OIG is aware, the initial staff analysis is treated as a draft and, as such, is not subject to FOIA requests. This approach is consistent with our view that the intent of this process is to work with the agency to bring them into compliance with the criteria and protects the agency from the public release of potentially embarrassing information that is subsequently corrected.

Finding No. 3 – OIG found that AAEU had no documented supervisory review process and relies on individual analyst's evaluations. We concede that the supervisory review process lacks formal documentation but wish to note that a substantial review of the draft analyses does take place. The AAEU Branch Chief conducts an initial review with the staff analyst of each draft analysis. Both the Director of ASL and the Executive Director of NACIQI subsequently review the drafts.

IG also recommends that more than one staff analyst be assigned to site visits to agencies and site reviews of institutions. As was noted earlier in my comments, these decisions are better made on a case by case basis.

In response to recommendation 3.1, the Director of ASL will develop procedures for documenting supervisory reviews of draft staff analyses. OPE does not concur in recommendation 3.2.

Finding No. 4 – OIG finds that AAEU analysts do not contact other Department units or agencies in gathering information used in evaluating accrediting agencies. The primary difficulty in accessing these external sources concerns the nature of the data. The information available from these sources is generally collected and maintained at the level of individual institutions, while the work of AAEU requires data aggregated at the level of the accrediting agency. Anecdotal information about a single school or a small number of schools is insufficient to establish a pattern of behavior by an agency that may be noncompliant with the Secretary's Criteria.

The Accreditation and State Liaison Unit (ASL) is currently evaluating Department databases, such as PEPS, GAPS, and IPEDS, to determine if they contain data that would be informative to AAEU analysts. If useful data are identified, ASL will explore the feasibility of extracting data from these Department sources to generate reports that can further inform analysts about agencies under review. If we believe it feasible to move forward with this activity, we anticipate completion by the end of this calendar year.

Tapping into databases maintained by state agencies raises issues in addition to those noted above. The Department would need to secure permission to access this information from each state. There are also issues of security of the data and software compatibility that would need to be resolved. We view this as a second phase activity to be undertaken after successfully accessing Department databases.

OPE partially concurs with Finding No. 4.

Please let me know if we can provide any additional clarification regarding this response.

Sincerely,

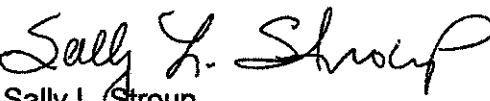

Sally L. Stroup

Exhibit G

Randy Chapel
PO Box 1050
Boulder Creek, CA 95006
randychapellegal@gmail.com

July 15, 2011

via USPS, Facsimile and email
Honorable Arne Duncan
Mr. Philip Rosenfelt
EDFOIA Manager
400 Maryland Avenue, SW
Washington, DC 20202
Fax: 202/401-0920

Sent also to:
Office of the Inspector General
Kathleen Tighe
400 Maryland Avenue, SW
Washington, DC 20202
OIG.hotline@ed.gov

Re: Randy Chapel, Joel Chapel, Dale Wilson, Carol Nye-Wilson's Standard Form 95
Carol's FOIA reference No. 11-01217-F

Dear Honorable Duncan, Mr. Rosenfelt, EDFOIA Manager and Ms. Tighe:

Carol has informed me of the latest round of claims by Bennie Jessup on behalf of the Department as of July 13, 2011. In Carol's July 7, 2011 letter she noted:

On 6/28/11 there were major problems in the 2nd interim production of responses to our FOIA requests numbered 1 & 3, and 48. EDFOIA correctly quoted our FOIA requests #'s 1, 2, 3 (1/2/08 email from Chuck Mula to Randy; and 6/17/08 email to Kevin Ford), and #48 (7/31/08 email from Carol to Chuck Mula regarding no response from NWCCU concerning substantive changes and law compliance requirements). However, EDFOIA did NOT produce the documents we requested.

On 6/28/11, the documents that EDFOIA purportedly produced for #'s 1, 2, 3, and 48 are conspicuously NOT the documents we requested by specific dates, authors, and recipients. For example, for #'s 1, 2, & 3 EDFOIA produced Chuck Mula's 7/21/08 email to Randy concerning the Department's response to an accreditation agency using written and unwritten policies, instead of producing Chuck Mula's 1/2/08 and 6/17/08 emails we requested. For #48, instead of producing my email to Chuck Mula about NWCCU's non-response, the EDFOIA produced the two letters written by Nancy C. Regan on August 29, 2008, to ATS and NWCCU purporting that the agencies complied with the Secretary's criteria for recognition (she quoted the ATS and NWCCU reviews that totally omitted the law violations in the settlement agreement that violate ATS's Standard 2.2 and NWCCU's requirement that Western comply with its Articles of Incorporation that requires law compliance).

On 6/28/11, the EDFOIA misrepresented the documents that EDFOIA purported to have produced to us, and the correct document responses were not produced. The EDFOIA letter from Bennie Jessup dated June 15, 2011, that arrived to me via email on 6/28/11, is a false record.

The EDFOIA office appears to be continuing to withhold specific documents from us that exhibit negligence of duty by Department employees including and not limited to Margaret Spellings, Nancy C. Regan, Cheryl Oldham, Carol Griffiths, and Chuck Mula.

There seems to be a pattern of deceitful behavior by Chuck Mula (gatekeeper of documents we requested) and other USDE employees regarding the specific documents being withheld from us that the EDFOIA is also withholding from Randy Chapel. Those documents that the EDFOIA is withholding from us are material evidences demonstrating the negligence of duty by employees of the USDE. The EDFOIA seems to be continuing its attempted cover up of the negligence of duty by former Department officials by not producing the documents we requested via the FOIA.

Duncan, Rosenfelt, OIG & FOIAMgr
July 15, 2011
Page 2 of 3

Carol's FOIA Nos. 1, 2, 3 are:

1. WRITINGS dated on or about 01/02/08 from Chuck Mula to Randy Chapel stating, "We have already determined that the criteria related issues with NWCCU and ATS are their failure to satisfactorily address your complaints, and their failure to comply with the Secretary's Substantive Change requirements.
2. WRITINGS dated on or about 06/17/08 from Chuck Mula to Kevin Ford regarding the Office of General Counsel recommended Mr. Mula not communicate to Mr. Chapel but he could speak with Mrs. Wilson (Carol Nye-Wilson, mother of Randy Chapel).
3. WRITINGS dated on or about 06/17/08 from Chuck Mula to student, Kevin Ford, regarding the Department working with ATS and NWCCU regarding substantive change policies as required by the Secretary's recognition and 34 CFR 602.22.

Bennie claims, "...those were the only documents they found around the dates you requested."

Discussion

First of all, the Department is basically destroying its credibility to the public.

Second, I have now noted to both Dale and Carol that they should proceed to tape all further communications with any employee of the Department so that those recordings can be made public.

Third, the purported "records" produced are not even close to what was sought. The Jan 2, 2008 email from Chuck Mula to Randy Chapel is well known and has been noted several times in various briefs and other emails. Because Chuck Mula sent it from his computer on the ed.gov network, we also have the IP address, logs and a header that shows Chuck Mula sent the email. This is the same for the June 17, 2008 email from Chuck Mula to Kevin Ford. In fact, there are several emails concerning the June 17, 2008 email that Mula wrote to Ford, in which both Mula and myself have several choice words concerning. All of these have headers and Chuck Mula has never denied the existence or content of these records.

I will remind the Inspector General, Mr. Rosenfelt and Secretary Duncan that *destruction* or *concealing* of records prior to production is a criminal act.

California Penal Code § 135. "Every person who, knowing that any book, paper, record, instrument in writing, or other matter or thing, is about to be produced in evidence upon any trial, inquiry, or investigation whatever, authorized by law, willfully destroys or conceals the same, with intent thereby to prevent it from being produced, is guilty of a misdemeanor."

Furthermore, such IPs from the ed.gov network has also shown up in other places. We are aware of employee(s) of the Department actively working to cover up this academic fraud case and links to Margaret Spellings, ATS, NWCCU and Western Seminary. In so doing, the employees of the Department are actually making a case for civil conspiracy and obstruction of justice as new FTCA claims against the employees of the Department.

Records being sought

On Jan 2, 2008 Chuck Mula stated:

I was referring to Carol Griffiths. I am sorry if we have misunderstood your complaint and misread the documentation. Before I can continue to aggressively peruse this investigation any further, or provide you with anymore information you need to specifically address what it is you are expecting the Department to do, and what are the specific allegations you are making against these two accrediting agencies so that we can move forward. We are only able to address issues regarding the Secretary's Criteria. **We have already determined that the criteria related issues with NWCCU and ATS are their failure to satisfactorily address your complaints, and their failure to comply with the Secretary's Substantive Change requirements.** At present this is the course we are perusing. We have no oversight authority of state

Duncan, Rosenfelt, OIG & FOIAMgr
July 15, 2011
Page 3 of 3

agencies or individual institutions therefore, we will not be able to address any personal issues you may have with Western Seminary or the California BPPVE. (emphasis added)

Please note that the message-ID: 9B35BF1886881547B5DFF88364AF31A30A596184@wdcrobe2m03.ed.gov defines a unique ID that identifies Chuck Mula's email, computer, network from all other emails, computers and network domains on the internet.

Mr. Mula has never disputed what he wrote, including when confronted by our attorney John Hannon on Jan 15, 2009 (note all the parties who received that email record).

Because both ATS and NWCCU were *not in compliance* with 34 CFR § 602.22, Mr. Mula further stated on June 17, 2008:

"I will talk to Ms. Wilson, I will not talk to Mr. Chapel. There has been no conditions set by the Office of General Council. They only recommend that I do not talk to Mr. Chapel. **We are working with both ATS and NWCCU to make sure that they have complaint policies and substantive change policies that are in compliance with the Secretary's Criteria.** This is being done as a direct result of Mr. Chapel's complaint." (emphasis added)

I shall point out that there are actually other records, which demonstrate these points as well.

The Department is to produce records. Production is not admission; it is simply producing records. The burden is on the Claimant to prove his/her case. Failure to produce records will be seen *in a light non-favorable to the Department*. Failure to produce records, which are on point to various issues, will be **highly non-favorable to the Department** and would be construed by the public, tier of fact and media as a cover up, since such acts require forethought as to the damage such records pose *against the Department*.

Those advising this process are doing a disservice to the Department, by not producing what is already known to exist and can be easily proven.

Respectfully submitted,

/s/

Randy Chapel

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Exhibit H



Advertisement

Views

Time for a Shotgun Divorce

May 4, 2007

By Alan Contreras

The irresistible force of the Cheneyist federal government has met the immovable object of colleges entrenched in their Eisenhower-era way of doing things, or so some commentators on the Department of Education's recent attempt at negotiated rule making would have it. If that were true, it would be a fairly traditional conflict that could be resolved through standard political channels.

Under those conditions, the service of a critic such as Anne Neal on the National Advisory Committee on Institutional Quality and Integrity (NACIQI), the department panel that reviews accreditors, would excite little attention. Government and politics are joined at the hip, and Neal has been a visible and effective commentator on important policy issues, from a position roughly congruent with that of Republicans. Fair enough.

But that isn't the situation. What is really happening is that accrediting bodies, which are not part of any government, are being jammed in between the principals like trapped sheep and beaten from both sides. The feds beat them for not thinking or acting like enforcers. Their collegiate membership beats them for listening to The Idiots In Washington. The Department of Education is using accreditors as a human shield to absorb incoming fire from schools, while simultaneously insisting that the *accreditors*, not the feds, fight back, with ammunition supplied by the feds themselves.

Sorry, that's a foul. Can't do it that way. It's even inconsistent with the usual habits of the force-based Cheneyist government, which is usually quite willing to simply declare any opposition -- indeed, any discussion -- to be enemy action and begin stomping. Of course, arranging for a third party to be blamed for one's actions is as old as politics.

Neal has argued that the formal linkage between the feds and accreditors needs to come to an end. She is right. This civil union of the 1950s, so convenient in another era under other conditions, no longer works. Eligibility for federal financial aid should be decoupled from accreditation as soon as possible and determination of eligibility brought inside the Department of Education. The department does it already for foreign schools, albeit badly. The establishment of an eligibility unit inside the department would simplify the situation immensely. If ever a Republican president were to support additional staff for the department, this is where they should go. Democrats could hardly object: adding this function where it belongs would allow government to work more efficiently and colleges to have a much clearer idea of what standards they must meet. A fine bipartisan plan.

The feds are trying in a very crude, clumsy way to transform accreditors into things that they were never intended to be and *cannot* be effectively: enforcement arms of the federal government. If the federal government wants to impose standards on schools that want federal aid, fine. Standards must be met for most federal aid, and that is as it should be. But the feds should not hide behind a third party in a shotgun wedding, when the bride would rather be anywhere else and the children think their new daddy is made by Frankenstein.

The standards for eligibility for financial aid should be set through a rational, governmental rule-making process that establishes the standards -- just like every other agency does it. Well, I make no claims of rationality for all governmental decisions, but neither can I do so for all policies established by accreditors -- assuming that anyone can figure out what they are.

Various critics of accreditation argue that the process is intrusive, ineffectual, does not help maintain quality and is not worth keeping. That's a discussion that needs to happen between the colleges and their accreditors, separately from what standards the federal government expects colleges to meet for aid eligibility. I have seen good, bad and useless things emerge from accreditors during my years working in higher education, and the discussion needs to happen. Separately. It is not appropriate to try to answer those questions, which are not federal in nature, in the middle of a tug-of-war between colleges and the feds, by wrapping the rope around the necks of the accreditors in the middle.

There is no reason for accreditors to be attached to the federal government. Allowing this interspecific coitus to continue is simply a recipe for mutant policy offspring that can't be effective. End it now. It's time for a shotgun divorce.

Alan L. Contreras has been administrator of the Oregon Office of Degree Authorization, a unit of the Oregon Student Assistance Commission, since 1999. His views do not necessarily represent those of the commission.

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Exhibit I

When I was 16 I was sexually molested by Steve Korch. At the time I lived in Anaheim, CA. This is my story.

I met Steve when I began attending Covenant Presbyterian Church in Orange, CA in early March 1975. He was the youth pastor and the instant I met him and his wife Ruthie I liked them very much. Steve was full of energy, very charismatic and enthusiastic. I was not yet a Christian and I began attending his Wednesday night Bible studies and joined the church youth group on outings such as a night at a roller-skating rink and a day trip up to the mountains to enjoy the snow.

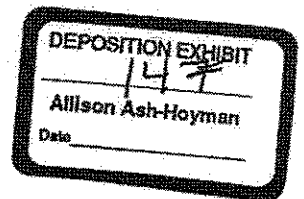
I had a lot of questions about God and after Bible study Steve would talk with me in his office which was located in a trailer. It was private; the main church office was located in another trailer which was perpendicular to Steve's. He always took his time with me and patiently answered all my questions, always seeking to lead me to the Lord. I learned he would soon graduate from Biola and that he had been at Covenant for about two years on a part-time basis. I also learned that he and Ruthie had been married a little over two years.

Before I began attending church I was a very depressed young girl. In my sophomore year of high school I found a mentor in my English teacher and he was always there for me when I needed to talk to someone. But during my junior year he went away for a year to Stanford and I bottled everything up inside. So I was really hurting and needing to talk to someone by the time I met Steve in the Spring of my junior year.

One Sunday night after the weekly youth group fellowship, Steve and Ruthie gave me a ride home in their red Volkswagon. I clearly remember how they beseeched me to give my life to Christ, how they said to me that Jesus was coming back soon and if I didn't go with them it would just break their hearts. I remember them telling me they were praying for me and how I thought to myself no one had ever told me that before.

When I became a Christian on March 22, 1975 both Steve and Ruthie were thrilled. They were so delighted that they took me out two days later for an all-day celebration. It was Spring break and we went to Maranatha Village, a Christian bookstore/gift shop and down to Balboa Island and out to lunch. On that day Steve gave me his copy of the book "Hind's Feet on High Places" which I still have. I also still have a thank you note that Ruthie wrote to me for some coffee mugs I gave them. In a short period of time they were becoming very special people to me.

Because I was still grappling with issues that troubled me and also because I was a brand-new Christian and still had lots of questions, Steve began spending time counseling me in his office. At last I had found someone I felt I could trust, someone who took the place of my teacher friend who was away. When I wrote to my teacher friend I told him about Steve and Ruthie in detail. He gave my letters back to me when he returned from Stanford, and I still have them.



In one letter to him I wrote, "One day as Steve and I were talking, I was having a hard time telling him exactly what was happening inside. Finally he suggested that if I could not say it, I should try writing it. I thought of you, my fear of writing for you, yet for some reason I did it. The next day when I was very deep into myself, I started writing. The end result was eight pages of thoughts I was much afraid to part with, but I knew I *had* to do it. Steve has accepted me for what I am and I was very thankful he understood my writing. He asked me if I would write for him whenever I felt the need to write. I said yes, I would share with him."

And that's exactly how I felt – like Steve accepted me. I felt he understood me. And always, *always* I felt he was someone I could trust. But one day that would change. It started with a kiss.

In early April 1975 one night after Bible study, Steve kissed me when we were alone in his office. I had never been kissed. I had no idea what it felt like to be kissed. I was stunned he was kissing me. He was *married*. He was 25 years old. I was a sexually naïve, sexually immature 16-year-old. I knew it was wrong. But I didn't tell anyone. Except for a small hint to my teacher friend in a letter when I wrote, "Steve and I have grown very close to one another. Somehow I know it is not entirely right."

The next time Steve and I met in his office for counseling was a week after he'd kissed me. Eventually he began kissing me again. I didn't stop him. I thought I was special. I thought he must be attracted to me if he was kissing me, and no one had ever shown me that kind of attention before. I know now that was a normal reaction for a young girl in my situation. But after awhile he started doing more than kissing me. He began touching my breasts. I was shocked. But I was too terrified to stop him. He just kept kissing me and gradually his hand moved down to my pants. He unzipped my pants and put his fingers inside my vagina. It hurt; I was a virgin. I didn't know what to do. He began moving his fingers in and out of my vagina while he continued kissing me. I was too afraid to stop him, to tell him he was hurting me, that he shouldn't be doing that to me. And so he just kept doing it.

I still never told anyone. But I kept a diary at the time and I wrote in the diary about what Steve was doing to me. I still had it in my head that I must be special. I began to think that maybe when I met with Steve for counseling he would simply kiss me to show me I was special. I would think I don't want him to do the other stuff because it hurts and I would hope that maybe he would just kiss me instead. But the molesting continued on several more occasions. And I wrote about it in my diary.

One day I looked at Steve and I said "you have Ruthie. *Why???*" I remember the look on Steve's face when he answered "I don't know". A look that seemed to say he truly didn't understand why he was hurting this young girl who trusted him.

I don't remember Steve ever saying to me that this was our secret and that I should not tell anyone what was happening. I think he knew that I wasn't going to tell anyone.

The thing that scared me the most was a question Steve posed to me one day. I had shared with him how I always wanted to have something to look forward to. And one time when he was molesting me he stopped for a minute and looked at me and said, "something to look forward to??" I was stunned. I remember just looking at him and something clicked in my brain, *this is so wrong!!* To me he was implying the things that he was doing to me were something for me to look forward to. And still I told no one.

One day after Steve had locked the door to his office, someone came and tried to open it. If the door had not been locked they would have caught Steve in the act. I remember the alarm on his face when he heard someone try to come in; he must have realized how close he came to being caught. I remember it was a guy in the youth group named Bob. But I never knew if he ever said anything to anyone about the door being locked.

On Monday, May 5, 1975 I took the bus to the church. Steve worked on Monday and Wednesday afternoons and I went to talk to him after I got home from school. When I got there that day I gave Steve several pages I had written of my thoughts and feelings. Despite the fact he was sexually abusing me, I was still thinking he wanted me to share with him.

On that date Steve eventually went further than he ever had before. For the first time he took out his erect penis and he put it right next to my vagina. He said something about just wanting to hold it there. I remember feeling very nervous. I didn't know what he was thinking. I didn't know what to do. But then he suddenly sent me away. He said he had work to do and instead of giving me a ride home like he usually did, I was going to have to take the bus home. I remember feeling like I was just being discarded like a piece of trash. I clearly remember and can picture me sitting in the corner on the floor of his trailer and begging him to let me stay and sit quietly while he did his work. I had thought I was special to him and now I was feeling like he had just used me. It was a terrible feeling. He refused to let me stay there and forced me to leave. And so I did.

I began walking slowly to the bus stop and I remember something just snapped in my brain. I remember feeling dazed. I remember hurting *so* bad and thinking to myself this man I trusted so completely has done terrible things to me. I remember it hitting me how horribly *wrong* it was. I think that was the exact moment I came to realize I was being sexually abused, without knowing the term for it at the time. I really just went into shock.

I never got on the bus. I walked in my dazed state to the Orange Mall and I went and sat in the lounge in the women's bathroom in Sears. And there I sat until the Mall closed several hours later. I remember inconsequential details like all I had for dinner was a Three Musketeers candy bar. I remember women coming in and out of the restroom and some of them looking at me with concern; some asked if I was okay. No one knew what a traumatized little girl they were looking at. I remember exactly what I was wearing. I remember how alone I felt. But what I remember the most is the physical pain I felt when I used the restroom and how at that moment I came to a stark realization and I said to myself, "*Steve broke my hymen*". I just knew. And looking back now I realize that

Steve himself must have realized that, and that perhaps that was what he'd been trying to do all along. I think that date was when it happened and perhaps that was why it was the first time he had ventured to put his penis next to me. As I learned later, if there had been even the slightest penetration then Steve would have been guilty of statutory rape.

After the Mall closed I began walking back towards the church. It was 9:00 p.m. and even though I subconsciously knew my family must be worried, I could not bring myself to go home. I was still so in shock, so unsure of what to do. There was a small "Church of Christ" church located behind Covenant and their doors were unlocked. (The building is still there today, though it is no longer a church.) I went inside and I remember I curled up underneath their altar and I went to sleep. A couple of hours later when I woke up, I started to walk over to Covenant. But as I got closer I saw police cars and Steve's red VW in the parking lot. I froze. Suddenly I knew why they were there. So I went back to the Church of Christ and stayed there for awhile longer. Eventually I went back over to Covenant and the police cars were gone. I had a key to the church as all members did, and I went inside and went to sleep at the back of the sanctuary where the audio equipment was.

I stayed there all the next day. The next night I heard someone come into the sanctuary and I recognized the voice of my sister and our friend from the youth group. She was crying and asking him where I could be, and they prayed together. In my traumatized state I was not able to come out from my hiding place. But it was agony to hear my sister crying. This is to illustrate how Steve's actions had so affected me. My sister to this day remembers that time of prayer with our friend, and she recently said to me, "of course I didn't know you were in the back." She also told me she remembers our father crying when I was missing.

After the two of them left I started thinking that I wanted to go find a phone booth and call Steve. I don't know what I was thinking I would say to him then, but I started to walk to a nearby park - Shaffer Park - to find a phone. It was dark and I saw some men walking down the street towards me and I got scared. There was a fire station right there - the Shaffer Street fire station - and I went inside. I began to think that maybe they could help me find a nice Christian home where I could just go for the night to get something to eat and wash my hair. I was so hungry and so dehydrated.

The firemen of course took me to be a runaway and they asked me my name. I didn't want to tell them my real name so I told them my name was "Melody". They were very kind to me and I remember they fixed me a waffle and a Coke. They tried to get more information out of me and I began to realize they were stalling me until the police could get there, so I took off. I ran back to Covenant and spent my second night in the back of the church by the audio equipment.

What I didn't know at the time was that after I went missing, my mother looked for my diary. When she found it and read my words, she knew then that I had been molested. Of course she immediately notified the police about it and showed them my diary. As I learned later, Steve was then questioned for two hours by the Orange police department.

I do not know if he was questioned by the police on May 5th or May 6th, but it was one of those two dates.

On Wednesday, May 7, 1975, I stayed hidden in the back of the sanctuary until 3:00 when Steve arrived for work. I was watching for him from the window. As soon as I saw his red VW pull into the parking lot I headed over to his trailer office. I remember I just walked in without knocking. Steve looked up at me in surprise and shock; in his hands were the pages I had given him to read the last time I saw him two days earlier. It was clear that the first thing he'd done when he got in his office was gotten them out to read again. And I remember how his look changed to one of anger. In another letter to my teacher friend I refer to what Steve said to me then as "a rude few words".

I remember I asked if I could use his phone. He walked out of the office as I called my mother and asked her to come pick me up. She was so relieved to hear from me of course, and she asked where I was. I said "Steve Korch's office", not knowing then that she knew what Steve had done to me. Steve stayed in the main office trailer until my mother pulled into the parking lot. As I walked to the car he came out of the office and actually waved hello to my mother.

She told me we had to go to the Anaheim police department immediately. I cried; I did not want to go. I was hungry, I was dehydrated, I was physically exhausted and emotionally spent. But after making me something to eat, she took me to Anaheim PD. At first a male detective interviewed me. But he was very brutal with me and I was basically victimized all over again. I don't know why, but I was trying to protect Steve and didn't want to tell him anything. I remember he yelled at me. I cried and cried and begged him to let me talk to a female officer instead. Eventually they did bring in a woman and she was very gentle with me. She tape recorded my statement and helped me get through telling her my story. It took a long time because there were several incidents of molestation and she wanted all the details. She was the one who tried to find out if there had been any penetration.

In a letter dated May 12, 1975 to my teacher friend about these events, I told him "Right now I am in the police files as a runaway." I told him, "Two police departments are involved." About my time at the Anaheim police station I wrote, "I was there almost 4 hours and maybe 1% of that talking time was about my 'running away'". The rest was about Steve Korch. They made me tell them everything I knew. I had to do it for Steve. They said if I didn't talk, it would mean much more trouble for Steve; that I would be ruining him." I told him, "I'm suffering right now very much. I haven't done a thing in school since I've been back. The other day in class I just put my head down and cried."

In that letter I also stated, "I'm waiting now to hear from the Orange police department whether they will be prosecuting Steve or not. The waiting hurts. My mind is so bogged down with thoughts. I can't concentrate! I feel like I died Wednesday — the day I came home."

Though the D.A. did want to prosecute Steve for what he did to me, ultimately my parents told them it would be bad for me and so charges were never filed. Because I was not strong enough emotionally then to testify against him, Steve got off completely. He went on to attend and graduate from Western Seminary and pastored several churches over the years.

A few days after the police investigation the church pastor, Dr. Ralph Didier, called my parents and I to a meeting with him and the deacons. What I remember about that meeting is my fear and that they told me that Steve had told Ruthie and the Orange police that I threw myself at him. They tried to put the blame on me, saying I had tempted him. My sister remembers that nothing was ever said; no one at the church was ever told what had happened.

The last time I saw Steve Korch was on May 25, 1975 when he preached on his last Sunday at the church. He never came to me while he had the chance to tell me he was sorry, to explain why he'd hurt me, or to ask my forgiveness. *He never came to me.* That is what hurts the most. Why not? And why did he pick *me*?

I remember the day after I returned to school, the principal let me have some time with my best friend in one of the offices to cry and talk. But I could not bring myself to tell her I had been molested. Now it's 30 years later and she and I are still in touch and one day in March 2005 I called her. I asked her if she remembered an incident in our junior year when I was missing for two days. She said yes and I asked her to tell me what she remembered about that time.

She immediately said "you were very quiet after that". She told me she suspected that "something happened with the guy at church". I asked her why she thought that and she said "because you didn't talk about him as much, and you did before that." She said that when I had talked about him before she got the impression he was like a mentor and that I was very fond of him, and she said I spoke very positively about him. She said she remembered the two days I was missing and that when I returned I was very sullen. She said, "your personality changed; you weren't a kid anymore". She had met Steve Korch once, when she came with the youth group on the outing to the mountains on March 15, 1975. Now, 30 years later, she would finally learn the reason for the drastic change in her best friend's personality. All these years I had never known she had suspected he was the reason all along.

I did not receive any counseling. My parents did want me to go for counseling but I did not want to go. I convinced people that I was fine. But inside I was in so much pain. I buried it and did not really let myself feel it. It was not until many years later that I spoke about the molestation with a counselor.

In a letter written in July 1975 to my teacher friend, I told him about the youth pastor that came after Steve and about some talks we'd had. I told him about having another meeting with Dr. Didier and asking him if the new youth pastor knew about what had happened with Steve and I. I wrote, "he said no, he told him just one little thing

concerning Steve that he really couldn't do much with. He told me just what it was he knew." Then I mentioned that during my second talk with the new youth pastor, "I found out that he knows everything and the pastor is the one who told him." So even though the members of the church were never told, there were other people who knew what Steve had done.

In 1980 (I believe it was in February) I decided to call Steve and Ruthie. I don't know why. Her father gave me their phone number in Oregon and I called. Ruthie answered; they had just returned from a trip but she sounded really happy to hear from me and she chatted away for several minutes, telling me about their children. Then I asked to speak to Steve. She put him on the phone but he clearly did not want to speak to me. He was as cold as ice. He barely responded to anything I said or asked and I finally ended the conversation, probably much to his relief. I never spoke to him again. I suppose part of me was hoping to hear him tell me that day how sorry he was.

I never married. Over the years I would have dreams about Steve in which I would scream at him and say "you never said you were sorry!!" In April and May 2000 when it was the 25-year "anniversary" of the events, I remember calling my sister and just crying, telling her I never had closure.

In 2002 news stories started coming out about Catholic priests who had molested children. Many of the incidents happened in the 1970's like mine had, and when I read some of the victims' stories about their trust being abused by someone of faith, it brought all my pain to the surface. It brought back a lot of my memories of Steve Korch hurting me. It was so, so painful. In April 2002, I got the idea for the first time to look for Steve on the Internet. I typed in his name in Yahoo and was stunned to see two links – that he was now the Dean of Western Seminary in San Jose, CA and that he had written a book called "My Soul Thirsts".

I ordered his book and read it, and before I finished it I drafted an e-mail that I had decided I would send. I sent the e-mail to him at Western Seminary on April 23, 2002, telling him I still needed to have him say he was sorry. The very next day Steve responded. He didn't deny what he had done. He called it a "moral failure" and said "my actions were undeniably deplorable". And he said he was sorry. I remember after I printed his response, I held the e-mail in my hand and said to myself, "so this is it? I'm supposed to feel closure now?" I still wondered why he had never come to me years earlier; why it took *me* coming to him to ask him to say he was sorry to get to hear the words. Or I should say read the words. I think now he should have offered to speak to me or meet with me to let me hear his voice and look in his eyes to see if there was really remorse. I think now that the words he wrote to me that day were simply to placate me.

My teacher friend's opinion of Steve's response to me was that it was too "polished", that he sounded very slick. I didn't see it myself at the time though.

Three more years passed and in early February 2005 as the 30-year "anniversary" approached I began having frequent thoughts of Steve and flashbacks to that traumatic

time in my life. I had trouble concentrating at work, I became very depressed and cried a lot. Memories I had repressed began coming back to me. I began thinking how very much I wanted to have a face-to-face meeting with Steve, to look in his eyes and ask him some questions and *hear* him tell me he was sorry *to my face*. I decided to see if Steve was still with Western Seminary and once again typed his name in Yahoo. This time to my surprise I found a web-site called religioushypocrites.com, which told about a lawsuit filed by Randy Chapel, a student at Western, against a woman named Debbie Brumbaugh, as well as Steve Korch, Western Seminary and other people at the school.

I contacted Randy Chapel in February 2005 and eventually decided to share my story with him about my experience with Steve Korch. It was hard to do this. But eventually I came to realize that in doing so we could get my story out there so people would know what Steve did to an innocent little girl who trusted him completely, and hopefully find out if there are other victims. This is why I have come forward to share my story. It is my hope that if there are other victims of Steve Korch, they will have the courage to come forward too and find healing, as I am trying to do after 30 years of pain, and that the words of I Corinthians 1: 3-4 would spring to life.

Exhibit J

1 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
2 IN AND FOR THE COUNTY OF SANTA CLARA
3 BEFORE THE HONORABLE **WILLIAM MONAHAN**, JUDGE
4 DEPARTMENT NUMBER 18
5

6 ---000---

7 **CAROL NYE-WILSON; DALE WILSON,**)
8)
9 PLAINTIFFS,)
10)
11 VERSUS) **1-07-CV-089064**
12)
13 **WESTERN SEMINARY; LYNN RUARK; STEVE**)
14 **KORCH; GARY TUCK; AND DOES 1 - 50**)
15 **INCLUSIVE,**)
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17 DEFENDANTS.)
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REPORTER'S TRANSCRIPT OF PROCEEDINGS

HELD ON: FEBRUARY 9, 2010

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APPEARANCES:

FOR THE PLAINTIFF: **SETH WIENER**
ATTORNEY AT LAW

FOR THE DEFENDANTS: **SAMUEL PHILLIPS**
ATTORNEY AT LAW

OFFICIAL COURT REPORTER: **LINDA GAY CYTRON**
C.S.R. 4791

1 SAN JOSE, CALIFORNIA

FEBRUARY 9, 2010

2 F I R S T M O R N I N G S E S S I O N

3 (WHEREUPON, PURSUANT TO ADJOURNMENT COURT
4 RECONVENED AND THE FOLLOWING PROCEEDINGS ENSUED:)

5 THE COURT: ALL RIGHT.

6 AND GOOD MORNING, LADIES AND GENTLEMEN.
7 WELCOME TO DEPARTMENT 18. THIS IS A SPECIALLY SET MATTER
8 OF CAROL NYE-WILSON VERSUS WESTERN SEMINARY, LINE 1.

9 MR. PHILLIPS: GOOD MORNING, YOUR HONOR.

10 SAM PHILLIPS ON BEHALF OF THE DEFENDANTS,
11 WESTERN SEMINARY, ET AL.

12 MR. WIENER: SETH WIENER FOR PLAINTIFF, CAROL
13 NYE-WILSON.

14 THE COURT: AND LET ME GET THE SPELLING --

15 MR. WIENER: SURE.

16 THE COURT: -- OF YOUR NAME.

17 MR. WIENER: YES.

18 MY LAST NAME IS -- FIRST IS SETH, S-E-T-H.
19 LAST NAME IS WIENER, W-I-E-N-E-R.

20 THE COURT: ALL RIGHT.

21 AND YOU'RE ON BEHALF OF THE PLAINTIFF CAROL
22 NYE-WILSON?

23 MR. WIENER: YES.

24 THE COURT: YES. OKAY.

25 SO WE HAVE A MOTION FOR PROTECTIVE ORDER THAT'S
26 BEEN FILED BY THE DEFENDANTS. WE ALSO HAVE A REQUEST FOR
27 MONETARY SANCTIONS BY THE DEFENDANTS AND ALSO -- A
28 CALENDAR REQUEST FOR MONETARY SANCTIONS BY THE PLAINTIFF.

1 THE COURT HAS REVIEWED BOTH SIDES' PAPERS AND
2 SO I'VE READ BOTH OF THEM. AND SO LET'S START WITH THE
3 MOVING PARTY. IT'S YOUR MOTION.

4 MR. PHILLIPS: YES, YOUR HONOR.

5 THE COURT: UNLESS YOU BOTH WANT TO SUBMIT ON
6 YOUR PAPERS. I HAVE READ THEM.

7 MR. PHILLIPS: NO, I HAVE ADDITIONAL COMMENTS
8 TO SAY ABOUT THE OPPOSITION AT LEAST.

9 THE COURT: ALL RIGHT. GO AHEAD.

10 MR. PHILLIPS: WE WANT TO POINT OUT -- AND I
11 DON'T KNOW IF IT'S CLEAR IN OUR MOTION -- THAT I ALSO
12 BELIEVE THAT THE NOTICES ARE UNTIMELY UNDER CALIFORNIA
13 LAW FOR PRODUCTION OF DOCUMENTS.

14 THERE'S A RAFT OF DOCUMENTS THAT WERE REQUESTED
15 OF THESE PARTIES -- OF THESE NON-PARTIES, INCLUDING THEIR
16 FINANCIAL RECORDS, DONATIONS, ET CETERA, AND ALSO A LIST
17 OF ALL THE PARTICIPANTS.

18 THIS IS OF GREAT CONCERN TO THOSE PARTIES THAT
19 THE PLAINTIFFS ARE REQUESTING THEIR FINANCIAL RECORDS AND
20 DONATIONS AND ALSO THE TOTAL AMOUNT THAT WAS INCURRED FOR
21 THIS RETREAT. IT'S WAY BEYOND THE SCOPE OF THIS TRIAL.
22 AND IN THIS CASE, THAT THEY'RE ASKING THESE NON-PARTIES
23 WHO HAD ONE INCIDENT THAT WAS CONNECTED VERY LOOSELY, IF
24 AT ALL, TO THIS MATTER AS TO THIS RETREAT AND ASKING FOR
25 THE RECORDS IS OUTRAGEOUS.

26 IN CALIFORNIA IF YOU HAVE A DEPOSITION NOTICE
27 RIGHT BEFORE TRIAL, WHICH WE ARE TO GO TO TRIAL ON MARCH
28 15TH, THE LAST DAY TO REQUEST ANY DEPOSITION NOTICE UNDER

1 CALIFORNIA LAW IS 25 DAYS -- YOU HAVE TO GIVE 25-DAYS'
2 NOTICE.

3 THE ONLY NOTICE GIVEN BY THE PLAINTIFF WAS
4 20-DAYS' NOTICE. IT WAS AN UNTIMELY REQUEST FOR
5 PRODUCTION IN ASSOCIATION WITH THE DEPO NOTICE. I WANT
6 TO BRING IT OUT THAT NO NEW DOCUMENTS SHOULD BE PRODUCED
7 AT THESE DEPOSITIONS.

8 THE COURT: NOW I DIDN'T SEE ANY OF THAT IN
9 YOUR PAPERS. WHY ISN'T THAT RAISED BEFORE NOW?

10 MR. PHILLIPS: WE DID TALK ABOUT THE UNTIMELY
11 DEPOSITION, ITSELF. AND I DIDN'T DO THAT BECAUSE MY
12 PARTNER PREPARED THESE DOCUMENTS WHILE WE WERE -- WE WERE
13 IN DEPOSITIONS IN PHOENIX AND SO I DIDN'T HAVE TIME TO
14 ADD THAT PART TO THE PAPERWORK ABOUT THE ACTUAL DOCUMENT.

15 I DID WRITE IT IN MY LETTER TO THEM, MEET AND
16 CONFER LETTER TO MR. WIENER THOUGH, ABOUT MY OBJECTIONS
17 ABOUT THE DOCUMENTS.

18 ALSO -- AND ALSO FROM DAY ONE THE FIRST TIME I
19 WAS INFORMED THERE WAS A PROBLEM I SAID, "I THINK YOUR
20 DEPOSITION NOTICE WAS UNTIMELY." THAT'S WHAT I MEANT WAS
21 THAT THE DOCUMENT NOTICE ITSELF WAS UNTIMELY UNDER
22 CALIFORNIA LAW AND THAT THAT WOULD BE UNACCEPTABLE ALONG
23 WITH THE ISSUE THAT IT WAS SHORT NOTICE FOR AN
24 OUT-OF-STATE DEPOSITION WITHOUT TELLING US THAT THEY WERE
25 TAKING IT.

26 THAT'S MY MAIN POINT.

27 I DISAGREE, YOU KNOW, WITH -- MRS. NYE-WILSON
28 HAS MADE A DECLARATION THAT IS IN MY MIND COMPLETELY

1 FALSE BECAUSE WITH THE LITIGATION -- IN THIS CASE SHE
2 MAKES A STATEMENT ABOUT STEVE KORCH COULD BE SOME KIND OF
3 POSSIBLE REOFFENDER.

4 FOR 30 YEARS HE'S BEEN A PASTOR. HE'S BEEN A
5 PROFESSOR AT LOS GATOS. AND, IN FACT, WE HAD TOOK HIS
6 DEPOSITION YESTERDAY. AND ONE OF THE E-MAILS THAT CAME
7 IN WAS THERE HAS BEEN NO INDICATION AT ALL IN THE LAST 30
8 YEARS THAT HE'S EVER DONE ANYTHING OTHER THAN THIS ONE
9 ALLEGED INCIDENT WHERE HE WAS IN COLLEGE AND SHE WAS IN
10 HIGH SCHOOL.

11 SO FOR HER TO MAKE A STATEMENT ABOUT HIM BEING
12 A POSSIBLE REOFFENDER IS JUST OUTRAGEOUS AND A COMPLETE
13 LIE BECAUSE THERE'S BEEN NO INDICATION OF IT. THERE'S
14 BEEN NO FACTS TO INDICATE THAT. SHE JUST COMPLETELY MADE
15 IT UP.

16 AND I'M REALLY OFFENDED THAT SHE MADE THAT
17 STATEMENT IN HER DECLARATION BECAUSE IT'S BASED ON ZERO
18 FACTS. SO I THINK -- I DEFINITELY CAN TELL YOU THAT FOR
19 30 YEARS THERE'S BEEN ZERO CLAIM, ANYTHING ABOUT MR.
20 KORCH.

21 AND THAT'S WHY A LOT OF THIS STUFF IS SO REMOTE
22 BECAUSE NOTHING HAS HAPPENED -- WELL, 35 YEARS. ACTUALLY
23 IT'S BEEN 35 YEARS THERE'S BEEN NO INCIDENT. SO LIKE I
24 SAY, IT'S AN OUTRAGEOUS COMMENT SHE'S MAKING.

25 THAT'S ALL, YOUR HONOR.

26 THE COURT: WELL, LET'S HEAR FROM THE OTHER
27 SIDE.

28 MR. WIENER: SURE. WE DID BRIEFLY ADDRESS IN

1 OUR OPPOSITION PAPERS THE FACT THAT THE DEPOSITION NOTICE
2 WAS TIMELY UNDER CODE OF CIVIL PROCEDURE 2020.220 WHICH
3 REQUIRES THAT SERVICE OF A DEPOSITION SUBPOENAE SHALL BE
4 AFFECTED A SUFFICIENT TIME IN ADVANCE OF THE DEPOSITION
5 TO PROVIDE THE DEPONENT A REASONABLE OPPORTUNITY TO
6 LOCATE AND PRODUCE ANY DESIGNATED RECORDS.

7 THERE'S NO STRICT TIME LIMIT. IF IT WAS SOLELY
8 A DOCUMENT SUBPOENAE, THERE WOULD BE A 20-DAY-TIME LIMIT,
9 WHICH WE DID ALSO COMPLY WITH. BUT -- BUT DEPO NOTICES
10 WERE SERVED ON THE DEPONENTS MORE THAN 20 DAYS PRIOR.

11 (WHEREUPON, COURT REPORTER INTERRUPTS AND ASKS
12 PERSON TO SLOW DOWN AND TO SPEAK UP.)

13 IT'S ALSO CORRECT THAT WE DID TAKE MR. KORCH'S
14 DEPOSITION YESTERDAY. WE'RE STILL RUNNING INTO THE SAME
15 ISSUE WHICH IS HE WON'T ADMIT THAT -- WHAT OCCURRED IN
16 1975.

17 WE BELIEVE IT IS DIRECTLY PERTINENT TO MRS.
18 WILSON'S CLAIMS THAT THIS SETTLEMENT AGREEMENT IS PART
19 AND PARCEL OF A COVER-UP OF MR. KORCH'S MOLESTATION OF A
20 CHILD IN 1975.

21 THE DEFENDANTS HAVE INTIMIDATED THE VICTIM OF
22 THIS CRIME BY REPEATEDLY PUBLICIZING HER NAME AND WE'RE
23 NOT SURE WE'LL BE ABLE TO SECURE HER TESTIMONY IN LIGHT
24 OF THAT. WE DO NEED WHATEVER EVIDENCE WE CAN OBTAIN THAT
25 THE ACT DID OCCUR.

26 WITH RESPECT TO THE CLAIM THAT MR. KORCH
27 CONTINUES TO SUFFER FROM THESE PEDOPHILE ISSUES, THE
28 E-MAIL THAT MR. PHILLIPS IS REFERRING TO ACTUALLY STATES

1 THAT MR. KORCH, HIMSELF, DOES NOT TRUST HIMSELF TO BE
2 ALONE WITH WOMEN IN A CLOSED ROOM.

3 I CONGRATULATE HIM ON TAKING VERY APPROPRIATE
4 STEPS TO ENSURE THAT THE SEXUAL MISCONDUCT DOES NOT OCCUR
5 AGAIN. BUT CLEARLY HE, HIMSELF, ACKNOWLEDGES THERE'S
6 SOME RISK TO THAT REOCCURRING, WHICH IS WHY WE INCLUDED
7 THAT IN OUR DECLARATION.

8 IT'S CERTAINLY NOT A MATTER WE COULD LEND TO --
9 THESE ARE NOT HOLLOW ALLEGATIONS THAT WE'RE MAKING
10 AGAINST MR. KORCH. IT'S SOMETHING THAT HIS WESTERN
11 SEMINARY -- THE DEFENDANT HAS ADMITTED OCCURRED. BUT
12 THEY'VE COUCHED IT IN MUCH GENERAL TERMS AND FAILED TO
13 ACKNOWLEDGE THE FACTS.

14 INSTEAD THEY'VE MADE REPEATED EFFORTS TO SWEEP
15 THIS UNDER THE CARPET, WHICH IT IS THE SAME THING THAT
16 THE OREGON WITNESSES PERCEIVED WHICH IS WHY WE WANT TO
17 TAKE THEIR DEPOSITIONS TO OBTAIN EVIDENCE.

18 REALLY, THIS ENTIRE SETTLEMENT AGREEMENT IS
19 DESIGNED TO PREVENT THIS FROM COMING INTO THE PUBLIC
20 LIGHT.

21 AND THERE'S CASE LAW THAT SAYS THAT -- FIRST,
22 THE STATEMENTS HE MADE TO THE OREGON WITNESSES WERE NOT
23 MADE AT A PROTECTED RELIGIOUS EVENT. THEY WERE MADE AT A
24 MEN'S RETREAT. THEY WEREN'T MADE SOLELY TO CLERGY
25 MEMBERS SUCH THAT THE CLERGY ADMIN (PHONETIC) PRIVILEGE
26 WOULD APPLY.

27 AND SECOND, THERE'S NO PROTECTIVE ORDER OR
28 SETTLEMENT AGREEMENT THAT CAN PREVENT SOMEBODY, AS THIS

1 ONE PURPORTS TO DO, FROM REPORTING CRIMES OR PUBLICIZING
2 THEM. AND THERE'S A CALIFORNIA COURT OF APPEALS CASE
3 DIRECTLY ON POINT DISCUSSING THAT ISSUE.

4 I WOULD ALSO NOTE THAT MISS WILSON OVERCAME A
5 MOTION FOR SUMMARY JUDGMENT UNDER CLAIM TO RESCIND THE
6 SETTLEMENT AGREEMENT BASED ON THE GROUND THAT IT'S
7 CONTRARY TO PUBLIC POLICY IN THAT IT'S A COVER-UP FOR MR.
8 KORCH'S CHILD MOLESTATION.

9 THE COURT: ALL RIGHT. ANYTHING FURTHER?

10 MR. PHILLIPS: WELL, YOU KNOW, IT'S -- YOU
11 KNOW, MY BIGGEST -- I GUESS MY RESPONSE WOULD BE THAT
12 IT'S NONSENSE.

13 BUT TO MAKE IT A LONGER STATEMENT THAN IT'S
14 SIMPLY NONSENSE IS IF, IN FACT, THERE'S ONE SECTION OF
15 THE SETTLEMENT AGREEMENT THAT WAS INAPPROPRIATE,
16 UNCONSCIONABLE, THERE IS A SEVERABILITY CLAUSE. AND
17 SIMPLY THE CLAIM IS TO BRING A MOTION AGAINST -- TO SEVER
18 THAT ONE SECTION RATHER THAN TO BRING IN AN ENTIRE CASE
19 ABOUT ONE PARAGRAPH OF THE SETTLEMENT AGREEMENT WHICH HAS
20 A NON-DISPARAGEMENT CLAUSE.

21 BY THE WAY, THE PLAINTIFF HASN'T FOLLOWED THE
22 NON-DISPARAGING CLAUSE ANYWAY. SHE'S MADE COMMENTS TO
23 EVERY SINGLE PUBLIC AGENCY IN THE WORLD. SHE'S SENT
24 E-MAILS TO EVERYONE. SO SHE HASN'T FOLLOWED IT A BIT
25 SINCE THE SETTLEMENT. SO I AM NOT ENTIRELY SURE HOW YOU
26 CAN BE DAMAGED IF YOU ACTUALLY DIDN'T FOLLOW IT ONE BIT.

27 AND SO IT'S AN INTERESTING COMMENT THAT SHE
28 CLAIMS THAT THAT WAS THE PURPOSE. LAST -- THE SAME --

1 I'M NOT SURE IF IT WAS THIS WEEK -- LAST WEEK OR -- BURT
2 DOWNS (PHONETICS) WAS DEPOSED.

3 AND HE SAID, WHEN HE WAS ASKED WHETHER THIS IS
4 THE PURPOSE OF THE SETTLEMENT HE DOES -- DID NOT -- AGREE
5 THAT THE PRIMARY PURPOSE WAS FOR PEOPLE TO GET ON WITH
6 THEIR LIVES. OBVIOUSLY THE SETTLEMENT WAS A LARGE AMOUNT
7 OF MONEY AND ALSO A DEGREE FOR MR. CHAPLIN, TO GET AN
8 EDUCATIONAL DEGREE, 50 PERCENT OF WHICH HE WENT AND GOT,
9 THE REST HE DIDN'T. BUT THAT WAS THE PURPOSE OF THE
10 SETTLEMENT WAS FOR A GENTLEMAN -- WHO WAS KICKED OUT OF
11 THE UNIVERSITY -- TO GET TWO DEGREES.

12 AND I THINK AS A SIDE LIGHT THAT THERE WERE --
13 THERE WERE OTHER THINGS INCLUDED BECAUSE THE PLAINTIFFS
14 WERE RUNNING WEB SITES AND STILL RUN WEB SITES. SO I
15 GUESS IT'S AN INTERESTING ISSUE.

16 BUT I THINK IT'S MOSTLY A GREAT RED HEARING.
17 AND WITH THIS GREAT RED HERRING WE'RE NOW GOING TO HAVE
18 TO TRAVEL ALL THE WAY UP TO OREGON. THAT'S THE PROPOSAL
19 AT LEAST.

20 THE COURT: ALL RIGHT. IS IT SUBMITTED?

21 MR. WIENER: I'LL JUST -- DOES YOUR HONOR MIND
22 IF I BRIEFLY ADDRESS THE CONTENT OF THE SETTLEMENT
23 AGREEMENT?

24 THE COURT: WELL, I'VE READ YOUR PAPERS SO JUST
25 IF YOU HAVE SOMETHING BEYOND WHAT'S IN YOUR PAPERS.

26 MR. WIENER: SURE. WELL, THERE'S ACTUALLY TWO
27 CLAUSES OF THE SETTLEMENT AGREEMENT THAT COVER MR.
28 KORCH'S SEXUAL MISCONDUCT. THE FIRST IS THE

1 NON-DISPARAGING CLAUSE.

2 THE SECOND IS THERE'S ALSO A CLAUSE PREVENTING
3 MY CLIENTS FROM MAKING REPORTS TO ANY GOVERNMENTAL
4 AGENCIES, ANY EDUCATIONAL-LICENSING INSTITUTIONS AND SO
5 FORTH REGARDING THIS MISCONDUCT.

6 SO IT'S NOT A MATTER OF JUST SEVERING ONE
7 CLAUSE OF THE AGREEMENT. THE ENTIRE AGREEMENT IS PART
8 AND PARCEL OF THE COVER-UP.

9 THE COURT: ALL RIGHT. IS IT SUBMITTED?

10 MR. PHILLIPS: THAT'S IT, YOUR HONOR.

11 THE COURT: OKAY. SO LET ME -- I'LL TAKE IT
12 UNDER SUBMISSION FOR 15 MINUTES. I'LL GIVE YOU -- I'LL
13 COME BACK OUT IN 15 MINUTES, OKAY?

14 MR. WIENER: SURE.

15 MR. PHILLIPS: THANK YOU, YOUR HONOR.

16 MR. WIENER: THANK YOU, YOUR HONOR.

17 (WHEREUPON, COURT PROCEEDINGS ADJOURNED AT THIS
18 TIME AND A RECESS WAS TAKEN.)
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1 SAN JOSE, CALIFORNIA

FEBRUARY 9, 2010

2 F I R S T M O R N I N G S E S S I O N

3 (WHEREUPON, PURSUANT TO ADJOURNMENT COURT
4 RECONVENED AND THE FOLLOWING PROCEEDINGS ENSUED:)

5 THE COURT: ALL RIGHT. AND SO WE'RE CALLING
6 AGAIN LINE 1. THIS IS NYE-WILSON VERSUS WESTERN
7 SEMINARY. WE HAVE THE PLAINTIFF, CAROL NYE-WILSON'S
8 ATTORNEY, SETH WIENER PRESENT.

9 I'LL CALL HER PLAINTIFF --

10 MR. WIENER: SURE.

11 THE COURT: -- FOR SIMPLICITY, SINCE SHE'S THE
12 ONLY ONE THAT'S OPPOSING IT.

13 WE ALSO HAVE SAMUEL PHILLIPS PRESENT WHO
14 APPEARED EARLIER. HE'S THE COUNSEL FOR THE DEFENDANTS,
15 WESTERN SEMINARY, LYNN RUARK, R-U-A-R-K, STEVE KORCH,
16 K-O-R-C-H, AND GARY TRUCK, T-R-U-C-K, (SIC) WHO ALL
17 COLLECTIVELY ARE CALLED DEFENDANTS. THEY'RE THE PEOPLE
18 WHO BROUGHT THE MOTION FOR PROTECTIVE ORDER.

19 AND WE HAVE THE DEFENDANT'S MOTION FOR
20 PROTECTIVE ORDER AND REQUEST FOR MONETARY SANCTIONS. WE
21 ALSO HAVE THE OPPOSITION AND REQUEST FOR MONETARY
22 SANCTIONS BY PLAINTIFF, CAROL NYE-WILSON, WHO I'M GOING
23 TO BE CALLING PLAINTIFF.

24 SO THE MATTER HAVING BEEN SUBMITTED THE COURT
25 ORDERS AS FOLLOWS:

26 DEFENDANTS' MOTION FOR PROTECTIVE ORDER IS
27 DENIED.

28 DEFENDANTS' REQUEST FOR MONETARY SANCTIONS IS

1 DENIED.

2 PLAINTIFF'S REQUEST FOR MONETARY SANCTIONS IS
3 GRANTED IN THE AMOUNT OF 1,925 DOLLARS.

4 DEFENDANTS AND THEIR COUNSEL SHALL PAY THIS
5 AMOUNT TO COUNSEL FOR PLAINTIFF WITHIN 20 CALENDAR DAYS
6 OF THIS ORDER.

7 I'M SIGNING AN ORDER TO THAT EFFECT NOW. I'M
8 GOING TO BE GIVING IT TO COUNSEL FOR PLAINTIFF, CAROL
9 NYE-WILSON, WHO IS THE PREVAILING PARTY SO HE CAN SERVE
10 NOTICE OF ENTRY.

11 SO YOU'LL NEED TO TAKE THAT OVER, FILE IT, AND
12 SERVE NOTICE OF ENTRY.

13 ALL RIGHT. THAT'S THE ONLY MATTER ON THE NINE
14 O'CLOCK CALENDAR. COURT IS IN RECESS.

15 (WHEREUPON, PROCEEDINGS CONCLUDED AT THIS
16 TIME.)

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1 STATE OF CALIFORNIA)
2 COUNTY OF SANTA CLARA) SS.
3
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7

8 I, LINDA CYTRON, DO HEREBY CERTIFY THAT:

9 I AM AN OFFICIAL COURT REPORTER OF THE
10 SUPERIOR COURT OF THE STATE OF CALIFORNIA IN AND FOR THE
11 COUNTY OF SANTA CLARA, AND THAT AS SUCH I REPORTED IN
12 STENOTYPE THE PROCEEDINGS HAD IN THIS MATTER AT THE TIME
13 AND PLACE THEREIN SET FORTH; AND THAT THE SAME IS A FULL,
14 TRUE AND CORRECT TRANSCRIPTION OF SAID STENOTYPE AS
15 REPORTED BY ME TO THE BEST OF MY ABILITY.

16 I FURTHER CERTIFY THAT I HAVE COMPLIED WITH CCP
17 237 (A) (2) IN THAT ALL PERSONAL JUROR IDENTIFYING
18 INFORMATION HAS BEEN REDACTED, IF APPLICABLE.

19 DATED: THIS 22ND DAY OF FEBRUARY 2010.
20

21
22 LINDA CYTRON, C.S.R. 4791
23
24
25
26

27 PLEASE DO NOT COPY THIS TRANSCRIPT:

28 GOVERNMENT CODE 69954(D) ...SHALL NOT OTHERWISE PROVIDE
OR SELL A COPY OR COPIES TO ANY OTHER PARTY OR PERSON.

I N V O I C E

LINDA CYTRON, OFFICIAL COURT REPORTER
SUPERIOR COURT -- DEPARTMENT 18
191 NORTH FIRST STREET
SAN JOSE, CA 95113

TELEPHONE: 408-882-2305

DATE: FEBRUARY 22, 2010

TO: **JAMES CAI**
SCHEIN & CAI, LLP
111 W. ST. JOHN STREET, SUITE 1250
SAN JOSE, CA 95113
436-0758

CASE NO.: **CV089064**
CASE NAME: **NYE-WILSON VS. WESTERN SEMINARY**
HELD ON: **FEBRUARY 9, 2010**

COST FOR SERVICES RENDERED: \$ 64.00

RECEIVED CHECK 6412 DATED 2-16-10, \$64.00

Exhibit K

1-19-06
Faith Baptist Church
P.O. Box 570
Lincoln City, OR 97367
(541) 994-9106

An open letter to XXXX, Carol, and Steve:

The Deacon board of Faith Baptist Church recognizes the tragic nature of the sin that took place in April and May of 1975, and its terrible consequences for all who were involved.. We would agree with Steve's description that his actions were "deplorable." Had the church known of this moral failure in 1978, it is probable that they would not have called Steve Korch to be their pastor, and it is equally likely that, had the ordination council in 1980 known of this moral failure, they would not have recommended his ordination.

However, we as a deacon board feel that Steve acted responsibly when xxxx addressed him on the afternoon of April the 23rd of 2002 and he replied the morning of April the 24th at 10:33am, stating that "I am deeply sorry for that (my actions) and hope that you will be able to forgive me for the pain I have caused. Please forgive me for how I acted toward you." It is also our belief that Steve took every precaution not to enter into this temptation again. The testimony of a secretary who worked with him for 5 years at Faith Baptist Church indicates that he had given specific instructions to her not to leave him alone with a woman in his office. He also instructed the single youth leaders that they were never to be alone with young ladies. In the last 30 years, no one else has come forward to say that he has again committed an immoral act. Weighing these issues, the deacon board of Faith Baptist Church unanimously agrees not to remove Steve Korch's ordination. Steve has not violated the covenant he made with this church, and has not given the church any reason to withdraw his ordination since it was first issued.

All parties involved should be advised that the current congregation of Faith Baptist Church has been made aware of this moral failure that took place in 1975. They should also be aware that the leadership of Faith Baptist has expressed its opinion to Steve that, given the public nature of this sin, for the sake of the name of Christ, the more honorable course of action may be for him to voluntarily step down from his position of public ministry. It is our prayer that there would be healing for all parties involved. xxxx and Carol, Christ suffered greatly as he bore all of our sin in his body on the cross. His love caused to him to say of his tormentors, "Father, forgive them, for they know not what they do." It has been observed that no one acts so much like Christ as when they forgive another. Steve, Christ's great love also caused him to lay aside all his glory and humble himself, even to death, in order to redeem us. The path of following Jesus always involves denying ourselves. No one will win in this situation by trying to win. "Nothing in all creation is hidden from God's sight. Everything is uncovered and laid bare before the eyes of him to whom we must give account."-Heb 4:13, NIV.

Sincerely,

Pastor Bard Marshall

Jeff England, Chairman

Exhibit L

Randy Chapel
PO Box 1050
Boulder Creek, CA 95006
randychapellegal@gmail.com

May 11, 2011

via email and USPS
FOIA Manager (7009 2820 0002 5901 3882)
400 Maryland Avenue, SW
Washington, DC 20202-4651

Honorable Arne Duncan (7009 2820 0002 5901 3875)
Mr. Charles Rose (7009 2820 0002 5901 3868)
400 Maryland Avenue, SW
Washington, DC 20202

Chuck Mula (7009 2820 0002 5901 3851)
1990 K Street NW
Washington, DC 20006

Re: **FOIA request 2011-1**

Dear FOIA Manager, Secretary Duncan, Mr. Rose, Mr. Mula:

Pursuant to the Federal Freedom of Information Act, 5 U.S.C. § 552, I request access to and copies of records outlined below. I am aware that the Department of Education allows requests to be submitted other than by regular mail.

I defined **WRITINGS** per California Evidence Code Section 250 to mean any "handwriting, typewriting, printing, photostating, photographing, photocopying, transmitting by electronic mail or facsimile, and every other means of recording upon any tangible thing, any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combinations thereof, and any record thereby created, regardless of the manner in which the record has been stored."

I defined **ATS** (Association of Theological Schools) to mean the accreditation agency itself, any board member, administrator or agent of or **attorneys representing the accreditation agency**.

I defined **NWCCU** (Northwest Commission on Colleges and Universities) to mean the accreditation agency itself, any board member, administrator or agent of or **attorneys representing the accreditation agency**.

I define **WESTERN SEMINARY** to mean the school known as Western Seminary located in Portland, OR and formally Los Gatos, CA, any board member, instructor, administrator or agent of or **attorneys representing the school**.

I define **JSTB** to mean the school known as Jesuit School Of Theology at Berkeley located in Berkeley, CA (aka: Jesuit School Of Theology, *Jesuit School of Theology* at Santa Clara University), any board member, instructor, administrator or agent of or **attorneys representing the school**.

I define **ST. PATRICK'S** to mean the school known as St. Patrick's Seminary and University located in Menlo Park, CA, any board member, instructor, administrator or agent of or **attorneys representing the school**.

I define **EDINBURGH** to mean the school known as University of Edinburgh located in Edinburgh, Scotland, any board member, instructor, administrator, including any person associated with the School of Divinity or agent of or **attorneys representing the school**.

I define **PEOPLE SET** as to the set of real people who's names are: Randy Chapel, Carol Nye-Wilson (aka Carol Wilson, C Wilson, Carol Nye), Debbie Godbey (aka Debbie Brumbaugh Debra Brumbaugh, Deb Brumbaugh, Deb Godbey), Willard Brumbaugh, Paul Godbey, Dale Wilson, Kevin Ford, Jill Ford, Justin Nye, Steve Korch, Gary Tuck, Matt Tuck, Bert Downs, Randy Roberts, Rob Wiggins, William Dresser, John Hannon, James Cai, Seth

Wiener, Samuel Phillips, Cheryl Oldham, Nancy C. Regan, Matthew Geyer, Chuck Mula, Carol Griffiths, Diane Auer Jones (aka Diane Jones), Margaret Spellings, Leonard Sprinkles, Anthony Lauria, Linda McPharlin, Jonathan Radmacher, Ellen Hung, Andrew Adler, DeNise L. Hill, Kent Talbert, Donna Wittman, Daniel Aleshire, Jeremiah McCarthy, Charles Willard, Tom Johnson, Sandra Elman, Arne Duncan, Charles Rose, Maria-Teresa Cueva, Bennie Jessup, Mazie Hirono, Ed McFarlane, Al Johnson, Sally Warner.

The use of the word *between* in the following requests shall mean: addressed to a person found in the **PEOPLE SET** OR from a person found in the **PEOPLE SET** OR sent via cc: to a person in the **PEOPLE SET** OR sent via bcc to a person in the **PEOPLE SET**. For example: the various July 2008 communications between Chuck Mula and various people associated with NWCCU, when the Department asked NWCCU for a favor to write a statement the Department could use against Randy. These **WRITINGS** would be produced for category #19.

I seek the following category of items. Please indicate in the production, which set of materials correlates to which category of items. These materials should be sought from: Office of the Under Secretary, Office of the Deputy Secretary, Office of Postsecondary Education, Office of the General Counsel, Office of the Secretary. I am aware that the bulk of the materials are likely to be held by Chuck Mula.

WESTERN SEMINARY

1. **WRITINGS** from September 1999 to the present, *between* **ATS** and **WESTERN SEMINARY** that the U.S. Department of Education has in its possession, custody and control that relates to Randy Chapel.
2. **WRITINGS** from September 1999 to the present, *between* **NWCCU** and **WESTERN SEMINARY** that the U.S. Department of Education has in its possession, custody and control that relates to Randy Chapel.
3. **WRITINGS** from January 2007 to the present, *between* **EDINBURGH** and **WESTERN SEMINARY** that the U.S. Department of Education has in its possession, custody and control that relates to Randy Chapel.
4. **WRITINGS** from Aug 2006 to the present, *between* **ST. PATRICK'S** and **WESTERN SEMINARY** that the U.S. Department of Education has in its possession, custody and control that relates to Randy Chapel.
5. **WRITINGS** from December 2006 to the present, *between* **JSTB** and **WESTERN SEMINARY** that the U.S. Department of Education has in its possession, custody and control that relates to Randy Chapel.
6. **WRITINGS** from March 2006 to the present, *from* **WESTERN SEMINARY** to (any person or accreditation agency or business entity) that the U.S. Department of Education has in its possession, custody and control.
7. **WRITINGS** from March 2006 to the present, *from* (any person or accreditation agency or business entity) *to* **WESTERN SEMINARY** that the U.S. Department of Education has in its possession, custody and control.
8. **WRITINGS** from March 2006 to the present, *from* (any person or accreditation agency or business entity) *cc: to* **WESTERN SEMINARY** that the U.S. Department of Education has in its possession, custody and control.
9. **WRITINGS** from March 2006 to the present, *between* any employee of the Office of the General Counsel and **WESTERN SEMINARY** that the U.S. Department of Education has in its possession, custody and control.
10. **WRITINGS** from March 2006 to the present, *between* any employee of the Office of Postsecondary Education and **WESTERN SEMINARY** that the U.S. Department of Education has in its possession, custody and control.

11. **WRITINGS** from March 2006 to the present, *between* any employee of the Office of the Under Secretary and **WESTERN SEMINARY** that the U.S. Department of Education has in its possession, custody and control.
12. **WRITINGS** from March 2006 to the present, *between* any employee of the Office of the Deputy Secretary and **WESTERN SEMINARY** that the U.S. Department of Education has in its possession, custody and control.
13. **WRITINGS** from March 2006 to the present, *between* any employee of the Office of the Secretary and **WESTERN SEMINARY** that the U.S. Department of Education has in its possession, custody and control.
14. **WRITINGS** from March 2006 to the present, *between* any employee of the U.S. Department of Education and **WESTERN SEMINARY** concerning any accreditation violation by **WESTERN SEMINARY** as it relates to Randy Chapel.
15. **WRITINGS** from March 2006 to the present, *between* any employee of the U.S. Department of Education and **WESTERN SEMINARY** concerning any law violation by **WESTERN SEMINARY** as it relates to Randy Chapel.

ATS

16. **WRITINGS** from March 2006 to the present, *between* any employee of the (Office of Postsecondary Education OR Office of the General Counsel) and **ATS** that the U.S. Department of Education has in its possession, custody and control that relates to Randy Chapel. These **WRITINGS** may involve *one or more of any of the following people* within the **PEOPLE GROUP**.
17. **WRITINGS** from March 2006 to the present, *between* any employee of the (Office of Postsecondary Education OR Office of the General Counsel) and **ATS** that the U.S. Department of Education has in its possession, custody and control that relates to Carol Nye-Wilson. These **WRITINGS** may involve *one or more of any of the following people* within the **PEOPLE GROUP**.
18. **WRITINGS** from March 2006 to the present, *between* any employee of the (Office of Postsecondary Education OR Office of the General Counsel) and **ATS** that the U.S. Department of Education has in its possession, custody and control that relates to Kevin Ford. These **WRITINGS** may involve *one or more of any of the following people* within the **PEOPLE GROUP**.

NWCCU

19. **WRITINGS** from March 2006 to the present, *between* any employee of the (Office of Postsecondary Education OR Office of the General Counsel) and **NWCCU** that the U.S. Department of Education has in its possession, custody and control that relates to Randy Chapel. These **WRITINGS** may involve *one or more of any of the following people* within the **PEOPLE GROUP**.
20. **WRITINGS** from March 2006 to the present, *between* any employee of the (Office of Postsecondary Education OR Office of the General Counsel) and **NWCCU** that the U.S. Department of Education has in its possession, custody and control that relates to Carol Nye-Wilson. These **WRITINGS** may involve *one or more of any of the following people* within the **PEOPLE GROUP**.
21. **WRITINGS** from March 2006 to the present, *between* any employee of the (Office of Postsecondary Education OR Office of the General Counsel) and **NWCCU** that the U.S. Department of Education has in its possession, custody and control that relates to Kevin Ford. These **WRITINGS** may involve *one or more of any of the following people* within the **PEOPLE GROUP**.

MISC

22. **WRITINGS** from March 2006 to the present, *between* any employee of the Office of Postsecondary Education and **Randy Chapel** that the U.S. Department of Education has in its possession, custody and control. These **WRITINGS** may involve *one or more of any of the following people* within the **PEOPLE GROUP**.
23. **WRITINGS** from March 2006 to the present, *between* any employee of the Office of the General Counsel and **Randy Chapel** that the U.S. Department of Education has in its possession, custody and control. These **WRITINGS** may involve *one or more of any of the following people* within the **PEOPLE GROUP**.
24. **WRITINGS** from March 2006 to the present, *between* any employee of the Office of the Secretary and **Randy Chapel** that the U.S. Department of Education has in its possession, custody and control. These **WRITINGS** may involve *one or more of any of the following people* within the **PEOPLE GROUP**.
25. **WRITINGS** from March 2006 to the present, *between* any employee of the Office of Postsecondary Education and **Carol Nye-Wilson** that the U.S. Department of Education has in its possession, custody and control. These **WRITINGS** may involve *one or more of any of the following people* within the **PEOPLE GROUP**.

CONSIDERATIONS

- The U.S. Department of Education may exclude from production any materials Randy Chapel has produced to the U.S. Department of Education since October 2010.
- The U.S. Department of Education may exclude from production any materials in the possession, custody and control of OIG, OCR and FSA.

I agree to pay reasonable duplication fees for the processing of this request in an amount not to exceed \$200. However, please notify me prior to your incurring any expenses in excess of that amount.

If my request is denied in whole or part, I ask that you justify all deletions by reference to specific exemptions of the act. I will also expect you to release all segregated portions of otherwise exempt material. I, of course, reserve the right to appeal your decision to withhold any information or to deny a waiver of fees.

I look forward to your reply within 20 business days, as the statute requires.

Thank you for your assistance.

/s/

Randy Chapel

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